



Reprinted
April 4, 2007

ENGROSSED SENATE BILL No. 431

DIGEST OF SB 431 (Updated April 3, 2007 6:18 pm - DI 52)

Citations Affected: IC 4-4; IC 6-1.1; IC 6-2.3; IC 6-2.5; IC 6-3.1; IC 8-1; IC 13-11; IC 13-13; IC 13-18; IC 15-3; IC 15-9; noncode.

Synopsis: Environmental matters. Defines "applicant", "modification", and "responsible party" for purposes of confined feeding control statutes. Specifies that those statutes apply to both confined feeding operations (CFOs) and concentrated animal feeding operations (CAFOs), and to both original construction and modifications. Establishes good character disclosure requirements for CFOs and CAFOs. Provides that a structure or a manure treatment facility at a new CFO may not be constructed within one mile of the boundary of a school, a licensed health facility, or a municipality. Allows an expansion of an existing operation by a person who has not committed
(Continued next page)

Effective: Upon passage; January 1, 2007 (retroactive); March 1, 2007 (retroactive); July 1, 2007.

Gard, Kenley, Deig

(HOUSE SPONSORS — PFLUM, FRIEND, GOODIN, GUTWEIN)

January 18, 2007, read first time and referred to Committee on Energy and Environmental Affairs.

February 13, 2007, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

February 20, 2007, reported favorably — Do Pass.

February 26, 2007, read second time, amended, ordered engrossed.

February 27, 2007, engrossed. Read third time, passed. Yeas 33, nays 15.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Agriculture and Rural Development.

March 29, 2007, amended, reported — Do Pass.

April 3, 2007, read second time, amended, ordered engrossed.

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an environmental violation. Allows the department of environmental management (IDEM) to review and act on disclosed good character information. Establishes construction and modification fee and annual fee for CFOs and CAFOs. Establishes a confined feeding inspection fund. Requires IDEM to establish civil penalty matrices for various categories of violations relating to CFOs. Requires IDEM to inspect a CFO at least one time each year if the owner or operator has committed a violation of environmental management laws or a rule adopted by the water pollution control board. Specifies which governmental entities have regulatory authority concerning CFOs and CAFOs. Requires the state chemist to adopt rules relating to: (1) the use of fertilizer material and the distribution and storage of bulk commercial fertilizers; and (2) the establishment of a training and educational program for manure haulers and applicators. Requires the department of agriculture (DOA) to communicate with the executive of each county to encourage the county to adopt and assist the county in adopting an ordinance to address land use and zoning issues related to CFOs. Establishes a property tax deduction for property equipped with an organic waste biomass conversion unit. Establishes a property tax abatement for equipment at a confined feeding operation used for the anaerobic digestion of manure or the control of odors ("confined feeding equipment"). Provides that transactions involving confined feeding equipment are exempt from the state gross retail tax under certain circumstances. Establishes state tax liability credits for investments in confined feeding equipment and biodiesel facilities. Includes an organic waste biomass conversion facility in the definition of an alternate energy production facility. Establishes a utility receipts tax credit for a taxpayer that purchases electricity for resale at retail from an individual or entity that operates an organic waste biomass conversion unit and generates the electricity from the unit. Requires the DOA to implement a voluntary certified livestock producer program to provide incentives and recognition for producers who use innovative environmental, animal health, and general management practices. Establishes a biomass grant program administered by the office of energy and defense development to provide grants to defray part of the cost of installing certain biomass energy projects. Applies certain provisions of the act to pending confined feeding projects. Makes conforming amendments.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 431

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-11-15.4, AS ADDED BY P.L.235-2005,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 15.4. (a) The authority may issue bonds or notes
4 and invest or loan the proceeds of those bonds or notes to a participant
5 (as defined in IC 13-11-2-151.1) for the purposes of:
6 (1) the wastewater revolving loan program established by
7 IC 13-18-13-1; and
8 (2) the drinking water revolving loan program established by
9 IC 13-18-21-1.
10 (b) If the authority loans money to or purchases debt securities of a
11 political subdivision (as defined in ~~IC 13-11-2-164(a)~~ and
12 IC 13-11-2-164(b) **and IC 13-11-2-164(c)**), the authority may, by the
13 resolution approving the bonds or notes, provide that subsection (c) is
14 applicable to the political subdivision.
15 (c) Notwithstanding any other law, to the extent that any department
16 or agency of the state, including the treasurer of state, is the custodian
17 of money payable to the political subdivision (other than for goods or

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services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.

SECTION 2. IC 6-1.1-12-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec.

29. (a) As used in this section, "organic waste biomass conversion unit" means tangible property:

- (1) not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;
- (2) reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and
- (3) directly used to produce electricity of eighty (80) megawatts capacity or less from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including distiller's grains, kitchen waste, orchard tree crops, vineyard produce, grain, legumes, sugar, and other crop byproducts.

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel in an amount exceeding the minimum amount of fossil fuel required for any necessary startup and flame stabilization.

(a) (b) For purposes of this section, "wind power device" means a device, such as a windmill or a wind turbine, that is designed to utilize the kinetic energy of moving air to provide mechanical energy or to produce electricity.

(b) (c) The owner of real property, or a mobile home that is not assessed as real property, that is equipped with:

- (1) a wind power device; or
- (2) an organic waste biomass conversion unit;

is entitled to an annual property tax deduction.

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(d) The amount of the deduction equals the remainder of:

- (1) the assessed value of the real property or mobile home with the ~~wind power device~~ **tangible property described in subsection (c)(1) or (c)(2)** included; minus
- (2) the assessed value of the real property or mobile home without the ~~wind power device~~ **tangible property described in subsection (c)(1) or (c)(2)**.

SECTION 3. IC 6-1.1-12.1-1, AS AMENDED BY P.L.154-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

- (A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and
- (B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means tangible personal property that a deduction applicant:

- (A) installs after February 28, 1983, and on or before the approval deadline determined under section 9 of this chapter, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;
- (B) uses in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products;
- (C) acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for use as

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- 1 described in clause (B); and
 2 (D) never used for any purpose in Indiana before the
 3 installation described in clause (A).
 4 However, notwithstanding any other law, the term includes
 5 tangible personal property that is used to dispose of solid waste or
 6 hazardous waste by converting the solid waste or hazardous waste
 7 into energy or other useful products and was installed after March
 8 1, 1993, and before March 2, 1996, even if the property was
 9 installed before the area where the property is located was
 10 designated as an economic revitalization area or the statement of
 11 benefits for the property was approved by the designating body.
 12 (4) "Property" means a building or structure, but does not include
 13 land.
 14 (5) "Redevelopment" means the construction of new structures,
 15 in economic revitalization areas, either:
 16 (A) on unimproved real estate; or
 17 (B) on real estate upon which a prior existing structure is
 18 demolished to allow for a new construction.
 19 (6) "Rehabilitation" means the remodeling, repair, or betterment
 20 of property in any manner or any enlargement or extension of
 21 property.
 22 (7) "Designating body" means the following:
 23 (A) For a county that does not contain a consolidated city, the
 24 fiscal body of the county, city, or town.
 25 (B) For a county containing a consolidated city, the
 26 metropolitan development commission.
 27 (8) "Deduction application" means:
 28 (A) the application filed in accordance with section 5 of this
 29 chapter by a property owner who desires to obtain the
 30 deduction provided by section 3 of this chapter;
 31 (B) the application filed in accordance with section 5.4 of this
 32 chapter by a person who desires to obtain the deduction
 33 provided by section 4.5 of this chapter; or
 34 (C) the application filed in accordance with section 5.3 of this
 35 chapter by a property owner that desires to obtain the
 36 deduction provided by section 4.8 of this chapter.
 37 (9) "Designation application" means an application that is filed
 38 with a designating body to assist that body in making a
 39 determination about whether a particular area should be
 40 designated as an economic revitalization area.
 41 (10) "Hazardous waste" has the meaning set forth in
 42 IC 13-11-2-99(a). The term includes waste determined to be a

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hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) laboratory equipment;
- (ii) research and development equipment;
- (iii) computers and computer software;
- (iv) telecommunications equipment; or
- (v) testing equipment;

(C) the deduction applicant uses in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(D) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for purposes described in this subdivision; and

(E) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) racking equipment;
- (ii) scanning or coding equipment;
- (iii) separators;
- (iv) conveyors;
- (v) fork lifts or lifting equipment (including "walk behinds");

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(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant and uses for the storage or distribution of goods, services, or information; and

(D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

(14) "New information technology equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of equipment, including software, used in the fields of:

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and

(D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.

(16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.

(17) "Eligible vacant building" means a building that:

(A) is zoned for commercial or industrial purposes; and

(B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of

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1 occupation that the department of local government finance
2 requires.

3 **(18) "Confined feeding equipment" means equipment used for**
4 **either of the following at a confined feeding operation (as**
5 **defined in IC 13-11-2-40), including a concentrated animal**
6 **feeding operation (as defined in IC 13-11-2-38.3):**

7 **(A) The anaerobic digestion of manure.**

8 **(B) The control of odors.**

9 SECTION 4. IC 6-1.1-12.1-2, AS AMENDED BY P.L.154-2006,
10 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2007]: Sec. 2. (a) A designating body may find that a
12 particular area within its jurisdiction is an economic revitalization area.
13 However, the deduction provided by this chapter for economic
14 revitalization areas not within a city or town shall not be available to
15 retail businesses.

16 (b) In a county containing a consolidated city or within a city or
17 town, a designating body may find that a particular area within its
18 jurisdiction is a residentially distressed area. Designation of an area as
19 a residentially distressed area has the same effect as designating an
20 area as an economic revitalization area, except that the amount of the
21 deduction shall be calculated as specified in section 4.1 of this chapter
22 and the deduction is allowed for not more than five (5) years. In order
23 to declare a particular area a residentially distressed area, the
24 designating body must follow the same procedure that is required to
25 designate an area as an economic revitalization area and must make all
26 the following additional findings or all the additional findings
27 described in subsection (c):

28 (1) The area is comprised of parcels that are either unimproved or
29 contain only one (1) or two (2) family dwellings or multifamily
30 dwellings designed for up to four (4) families, including accessory
31 buildings for those dwellings.

32 (2) Any dwellings in the area are not permanently occupied and
33 are:

34 (A) the subject of an order issued under IC 36-7-9; or

35 (B) evidencing significant building deficiencies.

36 (3) Parcels of property in the area:

37 (A) have been sold and not redeemed under IC 6-1.1-24 and
38 IC 6-1.1-25; or

39 (B) are owned by a unit of local government.

40 However, in a city in a county having a population of more than
41 two hundred thousand (200,000) but less than three hundred
42 thousand (300,000), the designating body is only required to make

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one (1) of the additional findings described in this subsection or

one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by section 3, 4.5, or 4.8 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards

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must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following four (4) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(4) One (1) relative to the deduction allowed under section 4.8 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the economic revitalization area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to the deduction allowed under section 3 of this chapter, the deduction allowed under section 4.5 of this chapter, the deduction allowed under section 4.8 of this chapter, or any combination of these deductions;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~and~~ new information technology equipment, **and confined feeding equipment**, if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988;

(5) limit the dollar amount of the deduction that will be allowed under section 4.8 of this chapter with respect to the occupation of an eligible vacant building; or

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(6) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

To exercise one (1) or more of these powers, a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** installed on or before the approval deadline determined under section 9 of this chapter, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4, 4.5, or 4.8 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the

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time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 5. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new

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research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(3) Whether the estimate of the annual salaries of those

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1 individuals who will be employed or whose employment will be
 2 retained can be reasonably expected to result from the proposed
 3 installation of new manufacturing equipment, new research and
 4 development equipment, new logistical distribution equipment, ~~or~~
 5 new information technology equipment, **or confined feeding**
 6 **equipment.**

7 (4) With respect to new manufacturing equipment used to dispose
 8 of solid waste or hazardous waste by converting the solid waste
 9 or hazardous waste into energy or other useful products, whether
 10 the estimate of the amount of solid waste or hazardous waste that
 11 will be converted into energy or other useful products can be
 12 reasonably expected to result from the installation of the new
 13 manufacturing equipment.

14 (5) Whether any other benefits about which information was
 15 requested are benefits that can be reasonably expected to result
 16 from the proposed installation of new manufacturing equipment,
 17 new research and development equipment, new logistical
 18 distribution equipment, ~~or~~ new information technology
 19 equipment, **or confined feeding equipment.**

20 (6) Whether the totality of benefits is sufficient to justify the
 21 deduction.

22 The designating body may not designate an area an economic
 23 revitalization area or approve the deduction unless it makes the
 24 findings required by this subsection in the affirmative.

25 (d) Except as provided in subsection (h), and subject to subsection
 26 (i), an owner of new manufacturing equipment, new research and
 27 development equipment, new logistical distribution equipment, ~~or~~ new
 28 information technology equipment, **or confined feeding equipment**
 29 whose statement of benefits is approved after June 30, 2000, is entitled
 30 to a deduction from the assessed value of that equipment for the
 31 number of years determined by the designating body under subsection
 32 (g). Except as provided in subsection (f) and in section 2(i)(3) of this
 33 chapter, and subject to subsection (i), the amount of the deduction that
 34 an owner is entitled to for a particular year equals the product of:

35 (1) the assessed value of the new manufacturing equipment, new
 36 research and development equipment, new logistical distribution
 37 equipment, ~~or~~ new information technology equipment, **or**
 38 **confined feeding equipment** in the year of deduction under the
 39 appropriate table set forth in subsection (e); multiplied by
 40 (2) the percentage prescribed in the appropriate table set forth in
 41 subsection (e).

42 (e) The percentage to be used in calculating the deduction under

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1 subsection (d) is as follows:

2 (1) For deductions allowed over a one (1) year period:

3 YEAR OF DEDUCTION	PERCENTAGE
4 1st	100%
5 2nd and thereafter	0%

6 (2) For deductions allowed over a two (2) year period:

7 YEAR OF DEDUCTION	PERCENTAGE
8 1st	100%
9 2nd	50%
10 3rd and thereafter	0%

11 (3) For deductions allowed over a three (3) year period:

12 YEAR OF DEDUCTION	PERCENTAGE
13 1st	100%
14 2nd	66%
15 3rd	33%
16 4th and thereafter	0%

17 (4) For deductions allowed over a four (4) year period:

18 YEAR OF DEDUCTION	PERCENTAGE
19 1st	100%
20 2nd	75%
21 3rd	50%
22 4th	25%
23 5th and thereafter	0%

24 (5) For deductions allowed over a five (5) year period:

25 YEAR OF DEDUCTION	PERCENTAGE
26 1st	100%
27 2nd	80%
28 3rd	60%
29 4th	40%
30 5th	20%
31 6th and thereafter	0%

32 (6) For deductions allowed over a six (6) year period:

33 YEAR OF DEDUCTION	PERCENTAGE
34 1st	100%
35 2nd	85%
36 3rd	66%
37 4th	50%
38 5th	34%
39 6th	25%
40 7th and thereafter	0%

41 (7) For deductions allowed over a seven (7) year period:

42 YEAR OF DEDUCTION	PERCENTAGE
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1	1st	100%
2	2nd	85%
3	3rd	71%
4	4th	57%
5	5th	43%
6	6th	29%
7	7th	14%
8	8th and thereafter	0%
9	(8) For deductions allowed over an eight (8) year period:	
10	YEAR OF DEDUCTION	PERCENTAGE
11	1st	100%
12	2nd	88%
13	3rd	75%
14	4th	63%
15	5th	50%
16	6th	38%
17	7th	25%
18	8th	13%
19	9th and thereafter	0%
20	(9) For deductions allowed over a nine (9) year period:	
21	YEAR OF DEDUCTION	PERCENTAGE
22	1st	100%
23	2nd	88%
24	3rd	77%
25	4th	66%
26	5th	55%
27	6th	44%
28	7th	33%
29	8th	22%
30	9th	11%
31	10th and thereafter	0%
32	(10) For deductions allowed over a ten (10) year period:	
33	YEAR OF DEDUCTION	PERCENTAGE
34	1st	100%
35	2nd	90%
36	3rd	80%
37	4th	70%
38	5th	60%
39	6th	50%
40	7th	40%
41	8th	30%
42	9th	20%

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1	10th	10%
2	11th and thereafter	0%

3 (f) With respect to new manufacturing equipment and new research
4 and development equipment installed before March 2, 2001, the
5 deduction under this section is the amount that causes the net assessed
6 value of the property after the application of the deduction under this
7 section to equal the net assessed value after the application of the
8 deduction under this section that results from computing:

9 (1) the deduction under this section as in effect on March 1, 2001;
10 and

11 (2) the assessed value of the property under 50 IAC 4.2, as in
12 effect on March 1, 2001, or, in the case of property subject to
13 IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

14 (g) For an economic revitalization area designated before July 1,
15 2000, the designating body shall determine whether a property owner
16 whose statement of benefits is approved after April 30, 1991, is entitled
17 to a deduction for five (5) or ten (10) years. For an economic
18 revitalization area designated after June 30, 2000, the designating body
19 shall determine the number of years the deduction is allowed. However,
20 **except as provided in subsection (j)**, the deduction may not be
21 allowed for more than ten (10) years. This determination shall be made:

22 (1) as part of the resolution adopted under section 2.5 of this
23 chapter; or

24 (2) by resolution adopted within sixty (60) days after receiving a
25 copy of a property owner's certified deduction application from
26 the county auditor. A certified copy of the resolution shall be sent
27 to the county auditor.

28 A determination about the number of years the deduction is allowed
29 that is made under subdivision (1) is final and may not be changed by
30 following the procedure under subdivision (2).

31 (h) The owner of new manufacturing equipment that is directly used
32 to dispose of hazardous waste is not entitled to the deduction provided
33 by this section for a particular assessment year if during that
34 assessment year the owner:

35 (1) is convicted of a violation under IC 13-7-13-3 (repealed),
36 IC 13-7-13-4 (repealed), or IC 13-30-6; or

37 (2) is subject to an order or a consent decree with respect to
38 property located in Indiana based on a violation of a federal or
39 state rule, regulation, or statute governing the treatment, storage,
40 or disposal of hazardous wastes that had a major or moderate
41 potential for harm.

42 (i) For purposes of subsection (d), the assessed value of new

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1 manufacturing equipment, new research and development equipment,
 2 new logistical distribution equipment, ~~or~~ new information technology
 3 equipment, **or confined feeding equipment** that is part of an owner's
 4 assessable depreciable personal property in a single taxing district
 5 subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9
 6 is the product of:

7 (1) the assessed value of the equipment determined without
 8 regard to the valuation limitation in 50 IAC 4.2-4-9 or 50
 9 IAC 5.1-6-9; multiplied by

10 (2) the quotient of:

11 (A) the amount of the valuation limitation determined under
 12 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's
 13 depreciable personal property in the taxing district; divided by

14 (B) the total true tax value of all of the owner's depreciable
 15 personal property in the taxing district that is subject to the
 16 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9
 17 determined:

18 (i) under the depreciation schedules in the rules of the
 19 department of local government finance before any
 20 adjustment for abnormal obsolescence; and

21 (ii) without regard to the valuation limitation in 50
 22 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

23 **(j) For confined feeding equipment, a deduction may not be**
 24 **allowed under subsection (g) for more than five (5) years.**

25 SECTION 6. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.193-2005,
 26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2007]: Sec. 5.4. (a) A person that desires to obtain the
 28 deduction provided by section 4.5 of this chapter must file a certified
 29 deduction schedule with the person's personal property return on a form
 30 prescribed by the department of local government finance with the
 31 township assessor of the township in which the new manufacturing
 32 equipment, new research and development equipment, new logistical
 33 distribution equipment, ~~or~~ new information technology equipment, **or**
 34 **confined feeding equipment** is located. Except as provided in
 35 subsection (e), the deduction is applied in the amount claimed in a
 36 certified schedule that a person files with:

37 (1) a timely personal property return under IC 6-1.1-3-7(a) or
 38 IC 6-1.1-3-7(b); or

39 (2) a timely amended personal property return under
 40 IC 6-1.1-3-7.5.

41 The township assessor shall forward to the county auditor and the
 42 county assessor a copy of each certified deduction schedule filed under

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1 this subsection.

2 (b) The deduction schedule required by this section must contain the
3 following information:

4 (1) The name of the owner of the new manufacturing equipment,
5 new research and development equipment, new logistical
6 distribution equipment, or new information technology
7 equipment.

8 (2) A description of the new manufacturing equipment, new
9 research and development equipment, new logistical distribution
10 equipment, ~~or~~ new information technology equipment, **or**
11 **confined feeding equipment**.

12 (3) The amount of the deduction claimed for the first year of the
13 deduction.

14 **(4) For a deduction for confined feeding equipment:**

15 **(A) a copy of the certification issued under subsection (j);**
16 **or**

17 **(B) a statement from the person filing the schedule that the**
18 **equipment is considered certified under subsection (k).**

19 (c) This subsection applies to a deduction schedule with respect to
20 new manufacturing equipment, new research and development
21 equipment, new logistical distribution equipment, ~~or~~ new information
22 technology equipment, **or confined feeding equipment** for which a
23 statement of benefits was initially approved after April 30, 1991. If a
24 determination about the number of years the deduction is allowed has
25 not been made in the resolution adopted under section 2.5 of this
26 chapter, the county auditor shall send a copy of the deduction schedule
27 to the designating body, and the designating body shall adopt a
28 resolution under section 4.5(g)(2) of this chapter.

29 (d) A deduction schedule must be filed under this section in the year
30 in which the new manufacturing equipment, new research and
31 development equipment, new logistical distribution equipment, ~~or~~ new
32 information technology equipment, **or confined feeding equipment** is
33 installed and in each of the immediately succeeding years the deduction
34 is allowed.

35 (e) The township assessor or the county assessor may:

36 (1) review the deduction schedule; and

37 (2) before the March 1 that next succeeds the assessment date for
38 which the deduction is claimed, deny or alter the amount of the
39 deduction.

40 If the township assessor or the county assessor does not deny the
41 deduction, the county auditor shall apply the deduction in the amount
42 claimed in the deduction schedule or in the amount as altered by the

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1 township assessor or the county assessor. A township assessor or a
 2 county assessor who denies a deduction under this subsection or alters
 3 the amount of the deduction shall notify the person that claimed the
 4 deduction and the county auditor of the assessor's action. The county
 5 auditor shall notify the designating body and the county property tax
 6 assessment board of appeals of all deductions applied under this
 7 section.

8 (f) If the ownership of new manufacturing equipment, new research
 9 and development equipment, new logistical distribution equipment, ~~or~~
 10 new information technology equipment, **or confined feeding**
 11 **equipment** changes, the deduction provided under section 4.5 of this
 12 chapter continues to apply to that equipment if the new owner:

13 (1) continues to use the equipment in compliance with any
 14 standards established under section 2(g) of this chapter; and

15 (2) files the deduction schedules required by this section.

16 (g) The amount of the deduction is the percentage under section 4.5
 17 of this chapter that would have applied if the ownership of the property
 18 had not changed multiplied by the assessed value of the equipment for
 19 the year the deduction is claimed by the new owner.

20 (h) A person may appeal a determination of the township assessor
 21 or the county assessor under subsection (e) to deny or alter the amount
 22 of the deduction by requesting in writing a preliminary conference with
 23 the township assessor or the county assessor not more than forty-five
 24 (45) days after the township assessor or the county assessor gives the
 25 person notice of the determination. Except as provided in subsection
 26 (i), an appeal initiated under this subsection is processed and
 27 determined in the same manner that an appeal is processed and
 28 determined under IC 6-1.1-15.

29 (i) The county assessor is recused from any action the county
 30 property tax assessment board of appeals takes with respect to an
 31 appeal under subsection (h) of a determination by the county assessor.

32 **(j) Except as provided in subsection (k), a person that files a**
 33 **certified deduction schedule under subsection (a) for a deduction**
 34 **for confined feeding equipment must file with the schedule proof**
 35 **of certification by the department of environmental management**
 36 **that the equipment for which the person claims the deduction is**
 37 **confined feeding equipment. The department of environmental**
 38 **management, upon application by a person, shall determine**
 39 **whether equipment qualifies as confined feeding equipment. If the**
 40 **department determines that the equipment qualifies as confined**
 41 **feeding equipment, the department shall certify the equipment and**
 42 **provide proof of the certification to the person. The department of**

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1 environmental management shall prescribe the form and manner
2 of the certification process required by this subsection.

3 (k) If the department of environmental management receives an
4 application for certification before April 15 of the assessment year,
5 the department shall determine whether the equipment qualifies as
6 confined feeding equipment and provide proof of the certification
7 to the person before June 11 of the assessment year. If the
8 department fails to provide proof under this subsection before
9 June 11 of the assessment year, the equipment is considered
10 certified.

11 SECTION 7. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.1-2006,
12 SECTION 134, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2007]: Sec. 5.6. (a) This subsection applies to
14 a property owner whose statement of benefits was approved under
15 section 4.5 of this chapter before July 1, 1991. In addition to the
16 requirements of section 5.4(b) of this chapter, a deduction schedule
17 filed under section 5.4 of this chapter must contain information
18 showing the extent to which there has been compliance with the
19 statement of benefits approved under section 4.5 of this chapter.
20 Failure to comply with a statement of benefits approved before July 1,
21 1991, may not be a basis for rejecting a deduction schedule.

22 (b) This subsection applies to a property owner whose statement of
23 benefits was approved under section 4.5 of this chapter after June 30,
24 1991. In addition to the requirements of section 5.4(b) of this chapter,
25 a property owner who files a deduction schedule under section 5.4 of
26 this chapter must provide the county auditor and the designating body
27 with information showing the extent to which there has been
28 compliance with the statement of benefits approved under section 4.5
29 of this chapter.

30 (c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following
31 information is a public record if filed under this section:

32 (1) The name and address of the taxpayer.

33 (2) The location and description of the new manufacturing
34 equipment, new research and development equipment, new
35 logistical distribution equipment, ~~or~~ new information technology
36 equipment, **or confined feeding equipment** for which the
37 deduction was granted.

38 (3) Any information concerning the number of employees at the
39 facility where the new manufacturing equipment, new research
40 and development equipment, new logistical distribution
41 equipment, ~~or~~ new information technology equipment, **or**
42 **confined feeding equipment** is located, including estimated

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totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

(2) Any information concerning the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

SECTION 8. IC 6-1.1-12.1-5.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**, or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 9. IC 6-1.1-12.1-8, AS AMENDED BY P.L.154-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Not later than December 31 of each year,

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the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the deduction applications that were filed under this chapter during that year that resulted in deductions being applied under this chapter for that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and applied during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that were in effect under section 4.5 of this chapter during the year.

(4) The total amount of all deductions for eligible vacant buildings that were in effect under section 4.8 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2), (a)(3), and (a)(4) with the department of local government finance not later than December 31 of each year.

SECTION 10. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.154-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the:

(A) initiation of the redevelopment or rehabilitation;

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;** or

(C) occupation of an eligible vacant building;

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for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

(C) rehabilitation; or

(D) occupation of an eligible vacant building;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** under section 2, 3, 4.5, or 4.8 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5, 5.3, or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 11. IC 6-2.3-1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 2.4. "Commission" refers to the Indiana utility regulatory commission.**

SECTION 12. IC 6-2.3-1-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 5.8. "Organic waste biomass conversion unit" has the meaning set forth in IC 6-1.1-12-29.**

SECTION 13. IC 6-2.3-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 5.3. Credits

Sec. 1. A taxpayer is entitled to the credits against the taxpayer's tax liability provided in this chapter.

Sec. 2. (a) If the amount of a credit granted under this chapter for a taxpayer in a taxable year exceeds the taxpayer's tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused credit.

Sec. 3. To apply a credit granted under this chapter against the taxpayer's tax liability, a taxpayer must claim the credit on the taxpayer's tax return or returns in the manner prescribed by the department. A taxpayer claiming a credit under this chapter shall submit to the department any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

Sec. 4. The amount of a credit granted under this chapter shall be disregarded by the commission in determining a taxpayer's rates.

Sec. 5. (a) A taxpayer that purchases electricity for resale at retail from an individual or entity that:

- (1) operates an organic waste biomass conversion unit; and**
- (2) generates the electricity from the organic waste biomass conversion unit;**

is entitled to a credit against the taxpayer's tax liability in the taxable year in which the electricity is received.

(b) The amount of the credit is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the rate per kilowatt hour that the taxpayer would be obligated to pay for the electricity under 170 IAC 4-4.1-9 (as effective January 1, 2007), as applied without:

(A) regard to whether the taxpayer is an electric utility (as defined in 170 IAC 4-4.1-1 (as effective January 1, 2007)); and

(B) any changes resulting from the negotiation of a different rate between the taxpayer and the electric power producer.

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STEP TWO: Determine the greater of zero (0) or the difference determined by subtracting the STEP ONE amount from the rate per kilowatt hour that the taxpayer paid for the electricity.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO result.

(B) The greater of zero (0) or fifty percent (50%) of the result determined by subtracting the STEP ONE amount from the average retail rate at which the taxpayer sells a kilowatt hour of electricity to residential customers (or all customers if the taxpayer does not sell electricity at retail to residential customers) during the same rating period.

STEP FOUR: Determine the greater of zero (0) or the product determined by multiplying the STEP THREE result by the number of kilowatt hours purchased by the taxpayer during the rating period.

SECTION 14. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for ~~his~~ **the person's** direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property is occupationally engaged in the production of food or commodities ~~which he~~ **that the person** sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

(c) **Transactions involving confined feeding equipment (as defined in IC 6-3.1-35-1) are exempt from the state gross retail tax if the person acquiring the property is occupationally engaged in the production of food or commodities that the person sells for human or animal consumption or uses for further food and food ingredient or commodity production.**

SECTION 15. IC 6-3.1-27-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. As used in this chapter,**

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"qualified investment" means the amount of a taxpayer's expenditures for:

- (1) the purchase of new equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new facilities;
- (6) costs associated with retooling existing machinery and equipment;
- (7) costs associated with the construction of special purpose buildings and foundations; and
- (8) costs of obtaining rights to use any patented process and any related trademark, if the rights are acquired from an entity that:

(A) does not have control of or a material, direct, or indirect ownership interest in:

- (i) the taxpayer that makes a qualified investment; or
- (ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer; and

(B) is not an entity in which:

- (i) the taxpayer that makes a qualified investment; or
- (ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer;

has control of or a material, direct, or indirect ownership interest;

that are certified by the corporation under section 10.5 of this chapter as being eligible for the credit under section 10.5 of this chapter.

SECTION 16. IC 6-3.1-27-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. (a) The amount of the credit to which a taxpayer is entitled under this section is the amount of the taxpayer's qualified investment that is placed in service in the taxable year.**

(b) To be entitled to a credit under this section, a taxpayer must request that the corporation determine whether an expenditure is a qualified investment. To make a request for a determination, a taxpayer must file with the corporation an application in the form and in the manner specified by the corporation. The application must be filed with the corporation before the taxpayer takes a

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substantial step toward improving the site where the qualified investment will be placed in service.

(c) After receiving an application for a credit under this section, the corporation shall review the application to determine whether the proposed expenditure is a qualified investment described in subsection (a) and the amount of the credit under this section to which the applicant would be entitled. The corporation shall send to the taxpayer and to the department of state revenue a letter:

(1) certifying that the taxpayer is entitled to claim the credit under this section for a qualified investment; or

(2) stating the reason why the taxpayer is not entitled to claim the credit.

If a taxpayer receives a credit under this section, the property for which the credit was granted must be placed in service not more than five (5) years after the corporation issues a letter under this section certifying that the taxpayer is entitled to claim the credit.

(d) If a taxpayer receives a credit under this section and does not make the qualified investment (or a part of the qualified investment) for which the credit was granted within the time required by subsection (c), the corporation may require the taxpayer to repay the following:

(1) The additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted for the qualified investment (or part of the qualified investment) that was not made by the taxpayer within the time required by subsection (c).

(2) Interest at a rate established under IC 6-8.1-10-1(c) on the additional amount of state tax liability referred to in subdivision (1).

(e) The corporation shall determine the maximum amount of credits to which a taxpayer is entitled under this section. The corporation may not grant under this section more than ten million dollars (\$10,000,000) in credits for all taxpayers for all taxable years. The corporation may not grant under this section more than two million dollars (\$2,000,000) in credits to any one (1) taxpayer or for any one (1) location for all taxable years.

SECTION 17. IC 6-3.1-27-13, AS AMENDED BY P.L.191-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. To receive the credit provided by this chapter, a taxpayer must do the following:

(1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

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- (2) Provide a copy of the certificate of the corporation finding:
 (A) that the taxpayer; or
 (B) if the taxpayer is a shareholder, partner, or member of a pass through entity, that the pass through entity; is eligible for the credit under IC 5-28-6-3 **or section 10.5 of this chapter.**
 (3) Submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

The department may require a pass through entity to provide informational reports that the department determines necessary for the department to calculate the percentage of a credit provided by this chapter to which a shareholder, partner, or member of the pass through entity is entitled.

SECTION 18. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 35. Confined Feeding Equipment Investment Tax Credit

Sec. 1. As used in this chapter, "confined feeding equipment" means equipment used for either of the following at a confined feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

- (1) The anaerobic digestion of manure.
- (2) The control of odors.

Sec. 2. As used in this chapter and unless the context clearly denotes otherwise, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. As used in this chapter and unless the context clearly denotes otherwise, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; and
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "qualified investment" means a taxpayer's expenditures for confined feeding equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

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1 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
 2 (2) IC 6-5.5 (the financial institutions tax); and
 3 (3) IC 27-1-18-2 (the insurance premiums tax);
 4 as computed after the application of the credits that under
 5 IC 6-3.1-1-2 are to be applied before the credit provided by this
 6 chapter.

7 Sec. 7. As used in this chapter, "taxpayer" means a person, a
 8 corporation, a partnership, or another entity that makes a
 9 qualified investment.

10 Sec. 8. (a) A taxpayer that:

11 (1) is allowed a tax credit under this chapter by the
 12 corporation; and

13 (2) complies with the conditions set forth in this chapter and
 14 the agreement entered into by the corporation and the
 15 taxpayer under this chapter;

16 is entitled to a credit against the taxpayer's state tax liability for a
 17 taxable year in which the taxpayer makes a qualified investment.

18 (b) A tax credit under this chapter must be applied against the
 19 taxpayer's state tax liability in the following order:

20 (1) Against the taxpayer's liability incurred under IC 6-3-1
 21 through IC 6-3-7 (the adjusted gross income tax).

22 (2) Against the taxpayer's liability incurred under IC 6-5.5
 23 (the financial institutions tax).

24 (3) Against the taxpayer's liability incurred under
 25 IC 27-1-18-2 (the insurance premiums tax).

26 Sec. 9. Subject to section 10 of this chapter, the amount of the
 27 credit to which a taxpayer is entitled for a qualified investment is
 28 equal to fifty percent (50%) of the amount of the taxpayer's
 29 qualified investment.

30 Sec. 10. (a) A credit under section 9 of this chapter must be
 31 taken in four (4) annual installments, beginning with the year in
 32 which the taxpayer places into service the taxpayer's confined
 33 feeding equipment.

34 (b) The amount of an annual installment of the credit under this
 35 chapter is equal to the credit amount determined under section 9
 36 of this chapter, divided by four (4).

37 Sec. 11. (a) A person that proposes to make a qualified
 38 investment may apply to the corporation before the taxpayer
 39 makes the qualified investment to enter into an agreement for a tax
 40 credit under this chapter. The corporation shall prescribe the form
 41 of the application.

42 (b) A person that files an application under subsection (a) for a

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1 tax credit under this chapter for confined feeding equipment must
 2 file with the application proof of certification by the department of
 3 environmental management that the equipment for which the
 4 person seeks a tax credit is confined feeding equipment. The
 5 department of environmental management, upon application by a
 6 person, shall determine whether equipment qualifies as confined
 7 feeding equipment. If the department determines that the
 8 equipment qualifies as confined feeding equipment, the department
 9 shall certify the equipment and provide proof of the certification
 10 to the person. The department of environmental management shall
 11 prescribe the form and manner of the certification process
 12 required by this subsection.

13 Sec. 12. After receipt of an application, the corporation may
 14 enter into an agreement with the applicant for a credit under this
 15 chapter if the corporation determines that the taxpayer's proposed
 16 investment satisfies the requirements of this chapter.

17 Sec. 13. (a) The corporation shall enter into an agreement with
 18 an applicant that is granted a credit under this chapter. The
 19 agreement must include all the following:

- 20 (1) A detailed description of the qualified investment that is
- 21 the subject of the agreement.
- 22 (2) The first taxable year for which the credit may be claimed.
- 23 (3) A requirement that the taxpayer shall maintain operations
- 24 at the site of the qualified investment for at least ten (10)
- 25 years.

26 (b) A taxpayer must comply with the terms of the agreement
 27 described in subsection (a) to receive an annual installment of the
 28 tax credit under this chapter. The corporation shall annually
 29 determine whether the taxpayer is in compliance with the
 30 agreement. If the corporation determines that the taxpayer is in
 31 compliance, the corporation shall issue a certificate of compliance
 32 to the taxpayer.

33 Sec. 14. If the credit allowed by this chapter is available to a
 34 member of an affiliated group of corporations filing a consolidated
 35 return under IC 6-3-4-14, the credit shall be applied against the
 36 state tax liability of the affiliated group.

37 Sec. 15. If a pass through entity does not have state income tax
 38 liability against which the tax credit under this chapter may be
 39 applied, a shareholder, member, or partner of the pass through
 40 entity is entitled to a tax credit equal to:

- 41 (1) the tax credit determined for the pass through entity under
- 42 this chapter for the taxable year; multiplied by

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(2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled.

Sec. 16. To receive the credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the certification required under section 11 of this chapter, a copy of the taxpayer's certificate of compliance issued under section 13 of this chapter, and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 19. IC 8-1-2.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

(1) a solar, a wind turbine, a waste management, a resource recovery, a refuse-derived fuel, or a wood burning facility, or an organic waste biomass conversion facility;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Organic waste biomass conversion facility" means tangible property:

(1) not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;

(2) reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and

(3) directly used to produce electricity of not more than eighty (80) megawatts capacity from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop byproducts or residues.

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel that exceeds the minimum amount of fossil fuel required for any necessary startup

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1 **and flame stabilization or municipal solid waste.**

2 ~~(c)~~ (d) "Cogeneration facility" means:

3 (1) a facility that:

4 (A) simultaneously generates electricity and useful thermal
5 energy; and

6 (B) meets the energy efficiency standards established for
7 cogeneration facilities by the Federal Energy Regulatory
8 Commission under 16 U.S.C. 824a-3;

9 (2) any land, system, building, or improvement that is located at
10 the project site and is necessary or convenient to the construction,
11 completion, or operation of the facility; and

12 (3) the transmission or distribution facilities necessary to conduct
13 the energy produced by the facility to users located at or near the
14 project site.

15 ~~(d)~~ (e) "Electric utility" means any public utility or municipally
16 owned utility that owns, operates, or manages any electric plant.

17 ~~(e)~~ (f) "Small hydro facility" means:

18 (1) a hydroelectric facility at a dam;

19 (2) any land, system, building, or improvement that is located at
20 the project site and is necessary or convenient to the construction,
21 completion, or operation of the facility; and

22 (3) the transmission or distribution facilities necessary to conduct
23 the energy produced by the facility to users located at or near the
24 project site.

25 ~~(f)~~ (g) "Steam utility" means any public utility or municipally owned
26 utility that owns, operates, or manages a steam plant.

27 SECTION 20. IC 13-11-2-8, AS AMENDED BY P.L.154-2005,
28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2007]: Sec. 8. (a) **"Applicant", for purposes of IC 13-18-10,**
30 **refers to a person (as defined in section 158(b) of this chapter) that**
31 **submits an application to the department under IC 13-18-10-2.**

32 ~~(a)~~ (b) "Applicant", for purposes of IC 13-19-4, means an
33 individual, a corporation, a limited liability company, a partnership, or
34 a business association that:

35 (1) receives, for commercial purposes, solid or hazardous waste
36 generated offsite for storage, treatment, processing, or disposal;
37 and

38 (2) applies for the issuance, transfer, or major modification of a
39 permit described in IC 13-15-1-3 other than a postclosure permit
40 or an emergency permit.

41 For purposes of this subsection, an application for the issuance of a
42 permit does not include an application for renewal of a permit.

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1 ~~(b)~~ (c) "Applicant", for purposes of IC 13-20-2, means an
 2 individual, a corporation, a limited liability company, a partnership, or
 3 a business association that applies for an original permit for the
 4 construction or operation of a landfill.

5 ~~(c)~~ (d) For purposes of subsection ~~(a)~~, (b), "applicant" does not
 6 include an individual, a corporation, a limited liability company, a
 7 partnership, or a business association that:

- 8 (1) generates solid or hazardous waste; and
 9 (2) stores, treats, processes, or disposes of the solid or hazardous
 10 waste at a site that is:

11 (A) owned by the individual, corporation, partnership, or
 12 business association; and

13 (B) limited to the storage, treatment, processing, or disposal of
 14 solid or hazardous waste generated by that individual,
 15 corporation, limited liability company, partnership, or business
 16 association.

17 SECTION 21. IC 13-11-2-71, AS AMENDED BY P.L.170-2006,
 18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2007]: Sec. 71. "Environmental management laws" refers to
 20 the following:

- 21 (1) IC 13-12-2 and IC 13-12-3.
 22 (2) IC 13-13.
 23 (3) IC 13-14.
 24 (4) IC 13-15.
 25 (5) IC 13-16.
 26 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
 27 (7) **IC 13-18-10**, IC 13-18-12, and IC 13-18-15 through
 28 IC 13-18-20.
 29 (8) IC 13-19-1 and IC 13-19-4.
 30 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
 31 IC 13-20-17.7, and IC 13-20-19 through IC 13-20-21.
 32 (10) IC 13-22.
 33 (11) IC 13-23.
 34 (12) IC 13-24.
 35 (13) IC 13-25-1 through IC 13-25-5.
 36 (14) IC 13-27-8.
 37 (15) IC 13-30, except IC 13-30-1.

38 SECTION 22. IC 13-11-2-129.9 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2007]: **Sec. 129.9. "Modification", for**
 41 **purposes of IC 13-18-10, refers to an expansion of a confined**
 42 **feeding operation or concentrated animal feeding operation that**

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1 results in either of the following:

2 (1) An increase in the confined animal capacity.

3 (2) An increase in the liquid manure storage capacity.

4 SECTION 23. IC 13-11-2-164 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. (a) "Political
6 subdivision", for purposes of IC 13-18-10, means:

7 (1) a county; or

8 (2) a municipality.

9 ~~(a)~~ (b) "Political subdivision", for purposes of IC 13-18-13, means:

10 (1) a political subdivision (as defined in IC 36-1-2);

11 (2) a regional water, sewage, or solid waste district organized
12 under:

13 (A) IC 13-26; or

14 (B) IC 13-3-2 (before its repeal July 1, 1996); or

15 (3) a local public improvement bond bank organized under
16 IC 5-1.4.

17 ~~(b)~~ (c) "Political subdivision", for purposes of IC 13-18-21, means:

18 (1) a political subdivision (as defined in IC 36-1-2);

19 (2) a regional water, sewage, or solid waste district organized
20 under:

21 (A) IC 13-26; or

22 (B) IC 13-3-2 (before its repeal July 1, 1996);

23 (3) a local public improvement bond bank organized under
24 IC 5-1.4;

25 (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public
26 water utility described in IC 8-1-2-125; or

27 (5) a conservancy district established for the purpose set forth in
28 IC 14-33-1-1(a)(4).

29 ~~(c)~~ (d) "Political subdivision", for purposes of IC 13-19-5, has the
30 meaning set forth in IC 36-1-2-13 and includes a redevelopment district
31 under IC 36-7-14 or IC 36-7-15.1.

32 SECTION 24. IC 13-11-2-191 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 191. (a) "Responsible
34 party", for purposes of IC 13-18-10, means any of the following:

35 (1) An applicant referred to in IC 13-18-10-1.5(a).

36 (2) A person referred to in IC 13-18-10-1.5(b).

37 (3) An officer, a corporation director, or a senior management
38 official of any of the following that is an applicant referred to
39 in IC 13-18-10-1.5(a) or a person referred to in
40 IC 13-18-10-1.5(b):

41 (A) A corporation.

42 (B) A partnership.

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1 (C) A limited liability company.

2 (D) A business association.

3 ~~(a)~~ (b) "Responsible party", for purposes of IC 13-19-4, means:

4 (1) an officer, a corporation director, or a senior management
5 official of a corporation, partnership, limited liability company, or
6 business association that is an applicant; or

7 (2) an individual, a corporation, a limited liability company, a
8 partnership, or a business association that owns, directly or
9 indirectly, at least a twenty percent (20%) interest in the
10 applicant.

11 ~~(b)~~ (c) "Responsible party", for purposes of IC 13-20-6, means:

12 (1) an officer, a corporation director, or a senior management
13 official of a corporation, partnership, limited liability company, or
14 business association that is an operator; or

15 (2) an individual, a corporation, a limited liability company, a
16 partnership, or a business association that owns, directly or
17 indirectly, at least a twenty percent (20%) interest in the operator.

18 ~~(c)~~ (d) "Responsible party", for purposes of IC 13-24-2, has the
19 meaning set forth in Section 1001 of the federal Oil Pollution Act of
20 1990 (33 U.S.C. 2701).

21 ~~(d)~~ (e) "Responsible party", for purposes of IC 13-25-6, means a
22 person:

23 (1) who:

24 (A) owns hazardous material that is involved in a hazardous
25 materials emergency; or

26 (B) owns a container or owns or operates a vehicle that
27 contains hazardous material that is involved in a hazardous
28 materials emergency; and

29 (2) who:

30 (A) causes; or

31 (B) substantially contributes to the cause of;
32 the hazardous materials emergency.

33 SECTION 25. IC 13-13-3-2 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The department must
35 include the following divisions:

36 (1) An air pollution control division.

37 (2) A water pollution control division.

38 (3) A solid waste management division.

39 ~~(4) A laboratory division.~~

40 ~~(5)~~ (4) An administrative services division.

41 ~~(6)~~ (5) A division of pollution prevention.

42 SECTION 26. IC 13-13-4-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The:

- (1) position of commissioner;
 - (2) highest position in each of the offices, except for the offices identified in:
 - (A) IC 13-13-3-1(1); and
 - (B) IC 13-13-3-1(3); and
 - (3) highest position in each of the divisions; ~~except for the division identified in IC 13-13-3-2(4);~~
- are subject to IC 4-15-1.8.

SECTION 27. IC 13-18-10-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.4. (a) The department and the boards have sole regulatory authority for the protection of the environment with respect to confined feeding operations and CAFOs.**

(b) The following are the only entities that have regulatory authority for the protection of human health with respect to confined feeding operations and CAFOs:

- (1) The department.**
- (2) The state department of health.**
- (3) A:**
 - (A) local health department; or**
 - (B) health and hospital corporation;****that has jurisdiction where the operation is located.**

(c) Subject to subsection (d), a political subdivision has regulatory authority for confined feeding operations and CAFOs only with respect to the following:

- (1) Land use.**
- (2) Zoning.**

(d) The granting by the department of an approval under section 1 of this chapter does not preempt or affect in any way the authority of a political subdivision under subsection (c).

SECTION 28. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b), a person may not start construction or modification of a confined feeding operation either of the following without obtaining the prior approval of the department:**

- (1) A confined feeding operation.**
- (2) A CAFO.**

(b) Subject to section 1.5 of this chapter, obtaining an NPDES permit for a CAFO meets the requirements of subsection (a)(2) and 327 IAC 16 to obtain an approval.

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SECTION 29. IC 13-18-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) An applicant must include in the application the disclosure statement or statements referred to in subsection (c).**

(b) A person that is not required to file an application for a CAFO as provided in section 1(b) of this chapter must include the disclosure statement or statements referred to in subsection (c) in:

(1) the application for an individual NPDES permit for the CAFO under 327 IAC 5; or

(2) the notice of intent filed under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(c) A person referred to in subsection (a) or (b) must submit to the department a disclosure statement for each responsible party that includes the following:

(1) The name and business address of the responsible party.

(2) A description of the responsible party's experience in managing the type of facility that will be managed under the permit.

(3) A description of all pending administrative, civil, or criminal enforcement actions filed against the responsible party alleging either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.

(4) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions resolved against the responsible party within the five (5) years that immediately precede the date of the application involving either of the following:

(A) Acts or omissions that:

(i) constitute a material violation of a state or federal environmental law or regulation; and

(ii) present a substantial endangerment to human health or the environment.

(B) Knowing repeated violations of state or federal environmental laws or regulations that could lead to

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environmental harm.

(5) Identification of all state and federal environmental permits previously denied or revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under subsection (b).

SECTION 30. IC 13-18-10-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.7. (a) Except as provided in subsection (b), a new confined feeding operation, including a CAFO, may not be constructed if any part of a structure that is part of the operation or of a manure treatment facility that is part of the operation would be less than one (1) mile from the boundary of any of the following:

(1) A parcel of land on which any of the following is located:

(A) A school, other than a home school.

(B) A health facility licensed under IC 16-28.

(2) A municipality.

(b) Subsection (a) does not apply to construction that:

(1) is an expansion of an existing confined feeding operation or CAFO; and

(2) is proposed by a person that has not committed a violation of:

(A) environmental management laws; or

(B) a rule adopted by the board;

as determined by the department.

SECTION 31. IC 13-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Application for approval of the construction **or modification** of a confined feeding operation **or a CAFO** must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.

(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires,

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including the following:

- (A) General features of topography.
- (B) Soil types.
- (C) Drainage course.
- (D) Identification of nearest streams, ditches, and lakes.
- (E) Location of field tiles.
- (F) Location of land application areas.
- (G) Location of manure treatment facilities.
- (H) Farmstead plan, including the location of water wells on the site.

(5) **Except as provided in subsection (f), a fee of one hundred dollars (\$100): one dollar (\$1).** The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(6) The disclosure statement or statements required under section 1.5 of this chapter.

(b) An applicant who applies for approval to construct a confined feeding operation **or a CAFO** on land that is undeveloped or for which a valid existing approval has not been issued, **or to modify a confined feeding operation or a CAFO**, shall make a reasonable effort to provide notice:

(1) to:

- (A) each person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified**; or
- (B) if a person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located **or modified** does not occupy the land, all occupants of the land; and

(2) to the county executive of the county in which the confined feeding operation **or the CAFO** is to be located **or modified**; not more than ten (10) working days after submitting an application. The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) A person must comply with subsection (d) if:

- (1) the person is not required to file an application as provided in section 1(b) of this chapter for construction of a**

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CAFO:**(A) on land that is undeveloped; or****(B) for which:****(i) a valid existing approval has not been issued; or****(ii) an NPDES permit has not been obtained;****or for modification of a CAFO; and****(2) the person files:****(A) an application under 327 IAC 5 for an individual NPDES permit for the construction or modification of a CAFO; or****(B) a notice of intent under 327 IAC 15 for general NPDES permit coverage for construction or modification of a CAFO.****(d) A person referred to in subsection (c) shall make a reasonable effort to provide notice:****(1) to:****(A) each person who owns land that adjoins the land on which the CAFO is to be located or modified; or****(B) if a person who owns land that adjoins the land on which the CAFO is to be located or modified does not occupy the land, all occupants of the land; and****(2) to the county executive of the county in which the CAFO is to be located or modified;****not more than ten (10) working days after submitting an application or filing a notice of intent. The notice must be sent by mail, be in writing, include the date on which the application or notice of intent was submitted to or filed with the department, and include a brief description of the subject of the application or notice of intent. The person shall pay the cost of complying with this subsection. The person shall submit an affidavit to the department that certifies that the person has complied with this subsection.****(e) The fee for a modification of a confined feeding operation or CAFO is one dollar (\$1).****~~(e)~~ (f) Plans and specifications for manure treatment or control facilities for a confined feeding operation or a CAFO must secure the approval of the department. The department shall approve the construction and operation of the manure management system of the confined feeding operation or the CAFO if the commissioner determines that the applicant meets the requirements of:****(1) this chapter;****(2) rules adopted under this chapter;****C
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- (3) the water pollution control laws;
- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations **or CAFOs.**

SECTION 32. IC 13-18-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; ~~and~~

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination; **and**

(3) may not approve the application if the limitation in section 1.7(a) of this chapter applies to the facility that is the subject of the application.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

- (1) continue to review the application;
- (2) approve or deny the application as soon as practicable; and
- (3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

- (1) do not contain adequate information for the department to process the application; or
- (2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation **or the CAFO** that concerns manure handling and application to assure compliance with:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;

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- 1 (4) rules adopted under the water pollution control laws; and
 2 (5) policies and statements adopted under IC 13-14-1-11.5
 3 relative to confined feeding operations or CAFOs.

4 **(e) Subject to subsection (f), the commissioner may deny an**
 5 **application or require the person to apply for an individual permit**
 6 **under section 2.4 of this chapter upon making either of the**
 7 **following findings:**

- 8 (1) A responsible party intentionally misrepresented or
 9 concealed any material fact in:

10 (A) a disclosure statement; or

11 (B) other information;

12 required by section 1.5 of this chapter.

- 13 (2) An enforcement action was resolved against a responsible
 14 party as described in section 1.5(c)(4) of this chapter.

15 **(f) Before making a determination to approve or deny a**
 16 **application or to require the person to apply for an individual**
 17 **permit under section 2.4 of this chapter, the commissioner must**
 18 **consider the following factors:**

- 19 (1) The nature and details of the acts attributed to the
 20 applicant or responsible party.

- 21 (2) The degree of culpability of the responsible party.

- 22 (3) The responsible party's cooperation with the state or
 23 federal agencies involved in the investigation of the activities
 24 involved in actions referred to in section 1.5(c)(4) of this
 25 chapter.

- 26 (4) The responsible party's dissociation from any other
 27 persons or entities convicted in a criminal enforcement action
 28 referred to in section 1.5(c)(4) of this chapter.

- 29 (5) Prior or subsequent self-policing or internal education
 30 programs established by the responsible party to prevent acts,
 31 omissions, or violations referred to in section 1.5(c)(4) of this
 32 chapter.

- 33 (6) Whether the best interests of the public will be served by
 34 denial of the permit or by requiring the person to apply for an
 35 individual permit under section 2.4 of this chapter.

- 36 (7) Any demonstration of good citizenship by the person or
 37 responsible party.

38 **(g) Except as provided in subsection (h), in taking action under**
 39 **subsection (e), the commissioner must make separately stated**
 40 **findings of fact to support the action taken. The findings of fact**
 41 **must:**

- 42 (1) include a statement of ultimate fact; and

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(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(h) If the commissioner denies an application under subsection (e) or requires a person to apply for an individual permit under section 2.4 of this chapter, the commissioner is not required to explain the extent to which any of the factors set forth in subsection (f) influenced the denial.

~~(e)~~ (i) The department may amend an approval of an application or revoke an approval of an application:

(1) for failure to comply with:

(A) this chapter;

(B) rules adopted under this chapter;

(C) the water pollution control laws; or

(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 33. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation **or CAFO**:

(1) was constructed; and

(2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction of an approved confined feeding operation **or CAFO** must:

(1) begin not later than two (2) years; and

(2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation **or CAFO** or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation **or CAFO** have been completed, whichever is later.

SECTION 34. IC 13-18-10-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.3. (a) A confined feeding operation must submit a **manure management plan to the department at least one (1) time every five (5) years.**

(b) For purposes of this section, a manure management plan ~~that outlines:~~ consists of:

(1) procedures for soil testing;

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- (2) procedures for manure testing; and
- (3) maps of manure application areas. ~~to the department at least one (1) time every five (5) years to maintain valid approval for the confined feeding operation under this chapter.~~

SECTION 35. IC 13-18-10-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.4. (a) The department may examine:**

- (1) a notice of intent filed under 327 IAC 15 for general NPDES permit coverage for a CAFO; and
- (2) the disclosure statement filed with the notice of intent under section 1.5(b)(2) of this chapter;

to determine whether there are grounds under section 2.1 of this chapter to require the person that files the notice of intent to apply for an individual permit for the CAFO under 327 IAC 5.

(b) If the department requires an application for an individual permit under subsection (a), the department must provide to the person the department's findings under section 2.1(e) of this chapter.

SECTION 36. IC 13-18-10-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.6.** The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations **and CAFOs** that may be administered by:

- (1) the department;
- (2) a state college or university; or
- (3) a contractor.

SECTION 37. IC 13-18-10-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.7. (a) Subject to IC 15-9-2-5, an annual fee of one dollar (\$1) applies to confined feeding operations and CAFOs.**

(b) A CAFO subject to a fee under the following is not subject to NPDES permit fees under IC 13-18-20:

- (1) This section.
- (2) Section 2 of this chapter.

(c) The department shall deposit the fee revenue collected under this section in the confined feeding operation inspection fund established by section 2.8 of this chapter.

SECTION 38. IC 13-18-10-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.8. (a) The confined feeding**

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operation inspection fund is established to permit the department to inspect confined feeding operations, including CAFOs, to determine compliance with this title.

(b) The department shall administer the fund. Money in the fund is annually appropriated to the department for purposes of this chapter.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 39. IC 13-18-10-4, AS AMENDED BY SEA 526-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations **and CAFOs** and may include uniform standards for:

(1) construction and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

SECTION 40. IC 13-18-10-6.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2007]: **Sec. 6.5. (a) The department shall establish civil penalty matrices for the following categories:**

- (1) First time violations.
- (2) Repeat violations.
- (3) Intentional violators.

(b) The civil penalty matrices established in this section must include the following factors to determine each penalty:

- (1) The magnitude of the violation.
- (2) The gravity of the effect of the violation.
- (3) The preventability of the violation.
- (4) The actions taken to prevent or correct the violation.

(c) The range of the penalties for each category of the civil penalty matrix is as follows:

- (1) First time violations, one hundred dollars (\$100) to twenty-five thousand dollars (\$25,000) for each day of violation.
- (2) Repeat violations, five hundred dollars (\$500) to fifty thousand dollars (\$50,000) for each day of violation.
- (3) Intentional violators, ten thousand dollars (\$10,000) to one hundred thousand dollars (\$100,000) for each day of violation.

SECTION 41. IC 13-18-10-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.7. The department shall inspect a confined feeding operation, including a CAFO, at least one (1) time each year if the department determines that the owner or operator has committed a violation of:**

- (1) environmental management laws; or
- (2) a rule adopted by the board.

SECTION 42. IC 13-18-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 12. (a) Except as provided in subsection (c), when a person files an application with the department concerning a NPDES permit, including:**

- (1) an application for an initial permit;
- (2) the renewal of a permit;
- (3) the modification of a permit; or
- (4) a variance from a permit;

the person must remit an application fee of ~~fifty~~ **seventy-five** dollars ~~(\$50)~~ **(\$75)** to the department.

(b) If a person does not remit an application fee to the department, the department shall deny the person's application.

(c) This section does not apply to a person filing an application

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or a notice of intent for:

- (1) an initial permit;
- (2) renewal of a permit; or
- (3) modification of a permit;

issued under 327 IAC 5 or 327 IAC 15 for an individual or general NPDES permit for a CAFO.

(d) A person referred to in subsection (c) is subject to fees under IC 13-18-10.

SECTION 43. IC 15-3-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. The state chemist ~~may~~ **shall** adopt rules under IC 4-22-2 relating to the use of fertilizer material and the distribution and storage of bulk commercial fertilizers to implement this chapter, including rules that set forth standards for the storage of bulk fertilizers for the purpose of protecting the waters of the state.

SECTION 44. IC 15-3-3-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) The state chemist shall adopt rules to establish a training and educational program for manure haulers and applicators concerning the application to land of manure generated from a confined feeding operation (as defined by IC 13-11-2-40), including concentrated animal feeding operations (as defined by IC 13-11-2-38.3).**

(b) The program established under subsection (a) must include the following topics concerning manure hauling and application:

- (1) Manure testing.**
- (2) Soil testing.**
- (3) Transportation.**
- (4) Manure application and handling.**
- (5) Any other topics determined by the state chemist.**

SECTION 45. IC 15-9-2-3, AS AMENDED BY P.L.1-2006, SECTION 294, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The department shall do the following:

- (1) Provide administrative and staff support for the following:
 - (A) The center for value added research.
 - (B) The state fair board for purposes of administering the director of the department of agriculture's duties under IC 15-1.5-4.
 - (C) The Indiana corn marketing council for purposes of administering the duties of the director of the department of agriculture under IC 15-4-10.

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- 1 (D) The Indiana organic peer review panel.
- 2 (E) The Indiana dairy industry development board for
- 3 purposes of administering the duties of the director of the
- 4 department of agriculture under IC 15-6-4.
- 5 (F) The Indiana land resources council.
- 6 (G) The Indiana grain buyers and warehouse licensing agency.
- 7 (H) The Indiana grain indemnity corporation.
- 8 (I) The division of soil conservation established by
- 9 IC 15-9-4-1.
- 10 (2) Administer the election of state fair board members.
- 11 (3) Administer state programs and laws promoting agricultural
- 12 trade.
- 13 (4) Administer state livestock or agriculture marketing grant
- 14 programs.
- 15 (5) Administer economic development efforts for agriculture.
- 16 **(6) Promote and support the biomass grant program**
- 17 **established by IC 15-9-5-3.**
- 18 SECTION 46. IC 15-9-2-5 IS ADDED TO THE INDIANA CODE
- 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 20 1, 2007]: **Sec. 5. (a) Before January 1, 2008, the department shall**
- 21 **implement a voluntary certified livestock producer program to**
- 22 **provide incentives and recognition for livestock producers who use**
- 23 **innovative environmental, animal health, and general management**
- 24 **practices. Criteria for certification in the program may include the**
- 25 **following:**
- 26 **(1) Compliance with all:**
- 27 **(A) laws and rules concerning confined feeding operations**
- 28 **(as defined by IC 13-11-2-40), including concentrated**
- 29 **animal feeding operations; and**
- 30 **(B) local zoning ordinances.**
- 31 **(2) Completion of educational modules on the environmental**
- 32 **impact of livestock production.**
- 33 **(3) Compliance with a national livestock association's**
- 34 **guidelines for animal health and food safety.**
- 35 **(4) Participation in biosecurity measures, including the**
- 36 **following:**
- 37 **(A) Premises or property identification under the state**
- 38 **board of animal health's implementation of stage 1 of the**
- 39 **National Animal Identification System.**
- 40 **(B) Implementation of the United States Department of**
- 41 **Agriculture's National Poultry Improvement Plan.**
- 42 **(C) Implementation of the United States Department of**

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Agriculture's online biosecurity guidelines and checklist.

(b) The department may remit a part of the fee required under IC 13-18-10-2.7 for livestock producers who are certified in the program.

SECTION 47. IC 15-9-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 5. Biomass Grant Program

Sec. 1. As used in this chapter, "office" means the office of energy and defense development.

Sec. 2. As used in this chapter, "person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, a governmental entity, or any other legal entity.

Sec. 3. There is established the biomass grant program.

Sec. 4. The office shall award grants and administer the program from funds appropriated to the office under section 6 of this chapter.

Sec. 5. The department shall assist the office in carrying out the office's duties under this chapter.

Sec. 6. The amount necessary to implement this chapter is annually appropriated to the office.

Sec. 7. A person may apply on a form prescribed by the office for a grant under this chapter to defray a part of the cost of installing a biomass energy project that makes use of any of the following technologies:

- (1) Anaerobic digestion.
- (2) Gasification.
- (3) Fast pyrolysis.

Sec. 8. A grant awarded under this chapter may not exceed the greater of:

- (1) twenty-five percent (25%) of a person's biomass energy project costs; or
- (2) two hundred fifty thousand dollars (\$250,000).

Sec. 9. The total amount of grants awarded under this chapter in a state fiscal year may not exceed two million dollars (\$2,000,000).

Sec. 10. This chapter expires July 1, 2009.

SECTION 48. [EFFECTIVE JULY 1, 2007] (a) Before November 1, 2007, the state chemist shall submit a report concerning the status of the manure haulers and applicators program under IC 15-3-3-17.5, as added by this act, to the general assembly in an

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1 electronic format under IC 5-14-6.

2 (b) This SECTION expires July 1, 2008.

3 SECTION 49. [EFFECTIVE UPON PASSAGE] (a) As used in this
4 SECTION, "concentrated animal feeding operation" has the
5 meaning set forth in IC 13-11-2-38.3.

6 (b) As used in this SECTION, "confined feeding operation" has
7 the meaning set forth in IC 13-11-2-40.

8 (c) As used in this SECTION, "executive" has the meaning set
9 forth in IC 36-1-2-5.

10 (d) Before January 1, 2008, the department of agriculture shall
11 communicate with the executive of each county to:

12 (1) encourage the county to adopt; and

13 (2) assist the county in adopting;

14 an ordinance to address land use and zoning issues in the county
15 related to concentrated animal feeding operations and confined
16 feeding operations.

17 (e) This SECTION expires January 1, 2008.

18 SECTION 50. [EFFECTIVE UPON PASSAGE] (a) This
19 SECTION applies notwithstanding the effective date of:

20 (1) IC 13-18-10-1.5 and IC 13-18-10-2.4, both as added by this
21 act; and

22 (2) the amendments under this act to IC 13-11-2-8,
23 IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1,
24 and IC 13-18-10-2.2.

25 (b) The definitions in IC 13-11-2 apply in this SECTION.

26 (c) Subject to subsection (d), the Indiana Code sections referred
27 to in subsection (a), as added or amended by this act, apply to the
28 following confined feeding operations and CAFOs in the same
29 manner those sections would have applied if those sections had
30 been in effect on the date the application for the confined feeding
31 operation or CAFO was submitted to the department of
32 environmental management or the notice of intent for general
33 NPDES permit coverage for the CAFO was filed with the
34 department:

35 (1) A confined feeding operation or CAFO for which a person
36 is required to submit an application to the department for
37 approval under IC 13-18-10-1(a), as amended by this act.

38 (2) A CAFO for which a person is required to submit an
39 application to the department for approval of an individual
40 NPDES permit for the CAFO under 327 IAC 5.

41 (3) A CAFO for which a person is required to file a notice of
42 intent under 327 IAC 15 for general NPDES permit coverage

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for the CAFO.

(d) Subsection (c) applies only if:

(1) an application referred to in subsection (c) was not approved by the department of environmental management before the effective date of this SECTION; or

(2) the date of submission of a notice of intent referred to in subsection (c) is on or after the effective date of this SECTION.

SECTION 51. [EFFECTIVE JULY 1, 2007] IC 6-1.1-12.1-1, IC 6-1.1-12.1-2, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-5.4, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.8, IC 6-1.1-12.1-8, and IC 6-1.1-12.1-11.3, all as amended by this act, apply only to property taxes first due and payable after 2008.

SECTION 52. [EFFECTIVE JULY 1, 2007] IC 13-18-20-11.5 IS REPEALED.

SECTION 53. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: (a) IC 6-1.1-12-29, as amended by this act, applies only to property taxes first due and payable after December 31, 2007.

(b) IC 6-2.3-5.3, as added by this act, applies only to taxable years beginning after December 31, 2006.

(c) IC 6-3.1-27-10.5, as added by this act, applies only to qualified investments placed in service after December 31, 2007.

SECTION 54. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) IC 6-2.5-5-2, as amended by this act, applies to transactions occurring after June 30, 2007.

(b) IC 6-3.1-35, as added by this act, applies to taxable years beginning after December 31, 2006.

SECTION 55. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 431, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-8, AS AMENDED BY P.L.154-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) **"Applicant", for purposes of IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.**

~~(a)~~ (b) "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) receives, for commercial purposes, solid or hazardous waste generated offsite for storage, treatment, processing, or disposal; and
- (2) applies for the issuance, transfer, or major modification of a permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

~~(b)~~ (c) "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

~~(c)~~ (d) For purposes of subsection ~~(a)~~; (b), "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

- (1) generates solid or hazardous waste; and
- (2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:
 - (A) owned by the individual, corporation, partnership, or business association; and
 - (B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association."

Page 1, line 11, delete "IC 13-18-10.5,".

Page 2, line 6, delete "191. (a)" and insert "191. (a) **"Responsible**

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party", for purposes of IC 13-18-10, means any of the following:

- (1) An applicant referred to in IC 13-18-10-1.5(a).
- (2) A person referred to in IC 13-18-10-1.5(b).
- (3) An officer, a corporation director, or a senior management official of any of the following that is an applicant referred to in IC 13-18-10-1.5(a) or a person referred to in IC 13-18-10-1.5(b):
 - (A) A corporation.
 - (B) A partnership.
 - (C) A limited liability company.
 - (D) A business association.

~~(a)~~ (b)".

Page 2, line 7, delete "IC 13-18-10.5 and".

Page 2, line 15, strike "(b)" and insert "(c)".

Page 2, line 22, strike "(c)" and insert "(d)".

Page 2, line 25, strike "(d)" and insert "(e)".

Page 3, line 14, delete "A" and insert "Except as provided in subsection (b), a".

Page 3, line 15, strike "a confined feeding operation" and insert "either of the following".

Page 3, line 16, delete "department. IC 13-18-10.5 applies" and insert "department:

- (1) A confined feeding operation.
- (2) A CAFO."

Page 3, delete line 17.

Page 3, line 18, delete "IC 13-18-10.5," and insert "section 1.5 of this chapter,".

Page 3, line 19, strike "(a)" and insert "(a)(2)".

Page 3, between lines 20 and 21, begin a new paragraph and insert:
 "SECTION 7. IC 13-18-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) An applicant must include in the application the disclosure statement or statements referred to in subsection (c).**

(b) A person that is not required to file an application for a CAFO as provided in section 1(b) of this chapter must include the disclosure statement or statements referred to in subsection (c) in:

- (1) the application for an individual NPDES permit for the CAFO under 327 IAC 5; or
- (2) the notice of intent filed under 327 IAC 15 for general NPDES permit coverage for the CAFO.

(c) A person referred to in subsection (a) or (b) must submit to

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the department a disclosure statement for each responsible party that includes the following:

- (1) The name and business address of the responsible party.
- (2) A description of the responsible party's experience in managing the type of facility that will be managed under the permit.
- (3) A description of all pending administrative, civil, or criminal enforcement actions filed against the responsible party alleging either of the following:
 - (A) Acts or omissions to which either of the following apply:
 - (i) The acts or omissions constitute a material violation of a state or federal environmental law or regulation.
 - (ii) The acts or omissions present a substantial endangerment to human health or the environment.
 - (B) Knowing repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.
- (4) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions resolved against the responsible party within the five (5) years that immediately precede the date of the application involving either of the following:
 - (A) Acts or omissions to which either of the following apply:
 - (i) The acts or omissions constitute a material violation of a state or federal environmental law or regulation.
 - (ii) The acts or omissions present a substantial endangerment to human health or the environment.
 - (B) Knowing repeated violations of state or federal environmental laws or regulations that could lead to environmental harm.
- (5) Identification of all state and federal environmental permits previously denied or revoked.
- (d) A disclosure statement submitted under subsection (c):
 - (1) must be executed under oath or affirmation; and
 - (2) is subject to the penalty for perjury under IC 35-44-2-1.
- (e) The department may investigate and verify the information set forth in a disclosure statement submitted under subsection (b).".

Page 3, line 23, after "operation" insert "or a CAFO".

Page 4, line 3, delete "three" and insert "four".

Page 4, line 4, delete "(\$3,000)." and insert "(\$4,000).".

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Page 4, between lines 6 and 7, begin a new line block indented and insert:

"(6) The disclosure statement or statements required under section 1.5 of this chapter."

Page 4, line 8, after "operation" insert **"or a CAFO"**.

Page 4, delete lines 12 through 20, begin a new line double block indented and insert:

"(A) each person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located; or

(B) if a person who owns land that adjoins the land on which the confined feeding operation **or the CAFO** is to be located does not occupy the land, all occupants of the land; and"

Page 4, line 22, after "operation" insert **"or the CAFO"**.

Page 4, line 31, after "operation" insert **"or a CAFO"**.

Page 4, line 34, after "operation" insert **"or the CAFO"**.

Page 4, line 41, delete "." and insert **"or CAFOs."**

Page 4, delete line 42, begin a new paragraph and insert:

"SECTION 9. IC 13-18-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

(1) continue to review the application;

(2) approve or deny the application as soon as practicable; and

(3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has

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mailed a notice of deficiency to the applicant that specifies the parts of the application that:

- (1) do not contain adequate information for the department to process the application; or
- (2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation **or the CAFO** that concerns manure handling and application to assure compliance with:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;
- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations **or CAFOs**.

(e) Subject to subsections (f) and (g), the commissioner may deny an application or require the person to apply for an individual permit under section 2.4 of this chapter upon making either of the following findings:

- (1) A responsible party intentionally misrepresented or concealed any material fact in:**

- (A) a disclosure statement; or**
- (B) other information;**

required by section 1.5 of this chapter.

- (2) An enforcement action was resolved against a responsible party as described in section 1.5(c)(4) of this chapter.**

(f) The commissioner may not deny a permit under this section or require the person to apply for an individual permit under section 2.4 of this chapter based solely on pending actions disclosed under section 1.5(c)(3) of this chapter.

(g) Before making a determination to approve or deny an application or to require the person to apply for an individual permit under section 2.4 of this chapter, the commissioner must consider the following factors:

- (1) The nature and details of the acts attributed to the applicant or responsible party.**
- (2) The degree of culpability of the responsible party.**
- (3) The responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in actions referred to in section 1.5(c)(4) of this chapter.**
- (4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action**

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referred to in section 1.5(c)(4) of this chapter.

(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.5(c)(4) of this chapter.

(6) Whether the best interests of the public will be served by denial of the permit or by requiring the person to apply for an individual permit under section 2.4 of this chapter.

(7) Any demonstration of good citizenship by the person or responsible party.

(h) Except as provided in subsection (i), in taking action under subsection (e), the commissioner must make separately stated findings of fact to support the action taken. The findings of fact must:

- (1) include a statement of ultimate fact; and
- (2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(i) If the commissioner denies an application under subsection (e) or requires a person to apply for an individual permit under section 2.4 of this chapter, the commissioner is not required to explain the extent to which any of the factors set forth in subsection (g) influenced the denial.

~~(e)~~ (j) The department may amend an approval **of an application** or revoke an approval **of an application**:

- (1) for failure to comply with:
 - (A) this chapter;
 - (B) rules adopted under this chapter;
 - (C) the water pollution control laws; or
 - (D) rules adopted under the water pollution control laws; and
- (2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 10. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation **or CAFO**:

- (1) was constructed; and
- (2) will be operated;

in accordance with the requirements of the department's approval.

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(b) Construction of an approved confined feeding operation **or CAFO** must:

- (1) begin not later than two (2) years; and
- (2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation **or CAFO** or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation **or CAFO** have been completed, whichever is later.

SECTION 11. IC 13-18-10-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.3. (a) A confined feeding operation must submit **a manure management plan to the department at least one (1) time every five (5) years.**

(b) For purposes of this section, a manure management plan that outlines: consists of:

- (1) procedures for soil testing;
- (2) procedures for** manure testing; and
- (3) maps of manure application areas. to the department at least one (1) time every five (5) years to maintain valid approval for the confined feeding operation under this chapter.**

SECTION 12. IC 13-18-10-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.4. (a) **The department may examine:**

- (1) a notice of intent filed under 327 IAC 15 for general NPDES permit coverage for a CAFO; and**
- (2) the disclosure statement filed with the notice of intent under section 1.5(b)(2) of this chapter;**

to determine whether there are grounds under section 2.1 of this chapter to require the person that files the notice of intent to apply for an individual permit for the CAFO under 327 IAC 5.

(b) If the department requires an application for an individual permit under subsection (a), the department must provide to the person the department's findings under section 2.1(e) of this chapter.

SECTION 13. IC 13-18-10-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations **and CAFOs** that may be administered by:

- (1) the department;
- (2) a state college or university; or
- (3) a contractor.

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SECTION 14. IC 13-18-10-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.7. (a) The following fees payable to the department apply to confined feeding operations and CAFOs based on the indicated number of animals:**

(1) For a confined feeding operation or a CAFO for the confined feeding of:

(A) at least six hundred (600) swine; and

(B) less than seven hundred fifty (750) swine;

a fee once every five (5) years in the amount of two hundred fifty dollars (\$250).

(2) For a confined feeding operation or a CAFO for the confined feeding of:

(A) more than seven hundred forty-nine (749) swine; and

(B) less than two thousand five hundred (2,500) swine;

an annual fee of three hundred dollars (\$300).

(3) For a confined feeding operation or a CAFO for the confined feeding of:

(A) more than three hundred (300) cows; and

(B) less than seven hundred (700) cows;

an annual fee of three hundred dollars (\$300).

(4) For a confined feeding operation or a CAFO for the confined feeding of at least two thousand five hundred (2,500) swine, an annual fee of nine hundred dollars (\$900).

(5) For a confined feeding operation or a CAFO for the confined feeding of at least seven hundred (700) cows, an annual fee of nine hundred dollars (\$900).

(6) For a confined feeding operation or a CAFO for the confined feeding of at least thirty thousand (30,000) poultry, an annual fee of nine hundred dollars (\$900).

(b) A CAFO subject to a fee under the following is not subject to NPDES permit fees under IC 13-18-20:

(1) Subsection (a).

(2) Section 2 of this chapter.

SECTION 15. IC 13-18-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations and CAFOs and may include uniform standards for:**

(1) construction and manure containment that are appropriate for

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a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) university extension bulletins; and

(2) be developed through technical review by the department, university specialists, and other animal industry specialists."

Delete pages 5 through 10.

Page 11, delete lines 1 through 36.

Page 12, line 7, delete "A" and insert **"This section does not apply to a"**.

Page 12, line 7, after "application" insert **"or a notice of intent"**.

Page 12, line 12, delete "CAFO shall remit the fees required under" and insert **"CAFO."**

(d) A person referred to in subsection (c) is subject to fees under IC 13-18-10."

Page 12, delete line 13.

Page 12, after line 20, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE JULY 1, 2007] IC 13-18-20-11.5 IS REPEALED."

Re-number all SECTIONS consecutively.

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 431 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 431, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 431 as printed February 14, 2007.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Senator Kenley be added as second author and Senator Deig be added as third author of Senate Bill 431.

GARD

SENATE MOTION

Madam President: I move that Senate Bill 431 be amended to read as follows:

Page 2, between lines 36 and 37, begin a new paragraph and insert:
 "SECTION 3. IC 13-11-2-129.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 129.9. "Modification", for purposes of IC 13-18-10, refers to an expansion of a confined feeding operation or concentrated animal feeding operation that results in either of the following:**

- (1) **An increase in the confined animal capacity.**
- (2) **An increase in the liquid manure storage capacity.**

SECTION 4. IC 13-11-2-164 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. (a) "Political subdivision", for purposes of IC 13-18-13, means:

- (1) a political subdivision (as defined in IC 36-1-2);
- (2) a regional water, sewage, or solid waste district organized under:

- (A) IC 13-26; or



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- (B) IC 13-3-2 (before its repeal July 1, 1996); or
- (3) a local public improvement bond bank organized under IC 5-1.4.
- (b) "Political subdivision", for purposes of **IC 13-18-10 and IC 13-18-21**, means:
 - (1) a political subdivision (as defined in IC 36-1-2);
 - (2) a regional water, sewage, or solid waste district organized under:
 - (A) IC 13-26; or
 - (B) IC 13-3-2 (before its repeal July 1, 1996);
 - (3) a local public improvement bond bank organized under IC 5-1.4;
 - (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public water utility described in IC 8-1-2-125; or
 - (5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).
 - (c) "Political subdivision", for purposes of IC 13-19-5, has the meaning set forth in IC 36-1-2-13 and includes a redevelopment district under IC 36-7-14 or IC 36-7-15.1."

Page 4, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 13-18-10-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.4. (a) The department and the boards have sole regulatory authority for the protection of the following with respect to confined feeding operations and CAFOs:**

- (1) Human health.**
- (2) The environment.**

(b) A political subdivision has regulatory authority for confined feeding operations and CAFOs only with respect to the following:

- (1) Land use.**
- (2) Zoning."**

Page 4, line 16, delete "JANUARY 1, 2008]:" and insert "JULY 1, 2007]:".

Page 4, line 17, after "construction" insert "**or modification**".

Page 5, line 5, delete "to which either of the following" and insert "**that:**

- (i) constitute a material violation of a state or federal environmental law or regulation; and**
- (ii) present a substantial endangerment to human health or the environment."**

Page 5, delete lines 6 through 10.

Page 5, line 19, delete "to which either of the following" and insert

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"that:

- (i) constitute a material violation of a state or federal environmental law or regulation; and
- (ii) present a substantial endangerment to human health or the environment."

Page 5, delete lines 20 through 24.

Page 5, line 37, after "construction" insert "or modification".

Page 6, line 17, delete "A" and insert "Except as provided in subsection (f), a".

Page 6, line 25, after "issued" insert ", or to modify a confined feeding operation or a CAFO,".

Page 6, line 29, delete ";" and insert "or modified;".

Page 6, line 32, after "located" insert "or modified".

Page 6, line 35, delete ";" and insert "or modified;".

Page 6, after line 42, begin a new paragraph and insert:"

(c) A person must comply with subsection (d) if:

- (1) the person is not required to file an application as provided in section 1(b) of this chapter for construction of a CAFO:

- (A) on land that is undeveloped; or

- (B) for which:

- (i) a valid existing approval has not been issued; or

- (ii) an NPDES permit has not been obtained;

- or for modification of a CAFO; and

- (2) the person files:

- (A) an application under 327 IAC 5 for an individual NPDES permit for the construction or modification of a CAFO; or

- (B) a notice of intent under 327 IAC 15 for general NPDES permit coverage for construction or modification of a CAFO.

(d) A person referred to in subsection (c) shall make a reasonable effort to provide notice:

- (1) to:

- (A) each person who owns land that adjoins the land on which the CAFO is to be located or modified; or

- (B) if a person who owns land that adjoins the land on which the CAFO is to be located or modified does not occupy the land, all occupants of the land; and

- (2) to the county executive of the county in which the CAFO is to be located or modified;

not more than ten (10) working days after submitting an

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application or filing a notice of intent. The notice must be sent by mail, be in writing, include the date on which the application or notice of intent was submitted to or filed with the department, and include a brief description of the subject of the application or notice of intent. The person shall pay the cost of complying with this subsection. The person shall submit an affidavit to the department that certifies that the person has complied with this subsection.

(e) The department shall:

(1) publish under IC 5-3-1 notice of:

(A) an application submitted under:

(i) subsection (a); or

(ii) subsection (c)(2)(A); or

(B) a notice of intent filed under subsection (c)(2)(B); and

(2) publish the notice required under subdivision (1):

(A) in the newspaper of general circulation with the largest circulation in the county in which the confined feeding operation or CAFO is to be located or modified; and

(B) one (1) time not more than ten (10) working days after the date of:

(i) submission of the application; or

(ii) filing of the notice of intent.

(f) The fee for a modification of a confined feeding operation or CAFO is the fee determined by rule by the department as a percentage of the fee established in subsection (a)(5) determined to account for the magnitude of the modification as compared to the magnitude of the original construction."

Page 7, line 1, strike "(c)" and insert "(g)".

Page 10, line 39, after "payable" insert "annually".

Page 10 line 41, delete "indicated number of animals:" and insert "following amount for each category under subsection (b) based on the number of each type of confined animal:

Category A \$100

Category B \$200

Category C \$800

Category D \$1,500

(b) The categories for purposes of subsection (a) are as follows:

	Category A	Category B
Mature cows	300 to 499	500 to 699
Other cattle	300 to 699	700 to 999
Swine at least 55 lbs	600 to 999	1,000 to 2,499
Swine less than 55 lbs	600 to 4,999	5,000 to 9,999

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Chickens	30,000 to 74,999	75,000 to 124,999
Turkeys	30,000 to 39,999	40,000 to 54,999
Ducks	30,000 to 59,999	60,000 to 99,999
Sheep	600 to 4,999	5,000 to 9,999
Horses	not applicable	not applicable
	Category C	Category D
Mature cows	700 to 1,999	at least 2,000
Other cattle	1,000 to 2,999	at least 3,000
Swine at least 55 lbs	2,500 to 7,499	at least 7,500
Swine less than 55 lbs	10,000 to 19,999	at least 20,000
Chickens	125,000 to 399,999	at least 400,000
Turkeys	55,000 to 174,999	at least 175,000
Ducks	100,000 to 299,999	at least 300,000
Sheep	10,000 to 19,999	at least 20,000
Horses	500 to 999	at least 1,000

(c) A confined feeding operation that:

- (1) provides confined feeding for a number of animals less than the minimum number of animals stated in IC 13-11-2-40(1); and
- (2) is a confined feeding operation as a result of meeting the criteria in IC 13-11-2-40(2) or IC 13-11-2-40(3);

is subject to the annual fee prescribed in subsections (a) and (b) for Category A."

Page 10, delete line 42.

Page 11, delete lines 1 through 24.

Page 11, line 25, delete "(b)" and insert "(d)".

Page 11, line 27, delete "Subsection (a)." and insert "This section."

Page 12, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE UPON PASSAGE] The department of environmental management shall adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to establish fees under IC 13-18-10-2(f), as added by this act. A temporary rule adopted under this subsection expires on the earliest of the following:

- (1) The date that the department of environmental management adopts another temporary rule under this SECTION that repeals, amends, or supersedes the previously adopted temporary rule.
- (2) The date that the department of environmental management adopts a permanent rule that repeals, amends, or supersedes the previously adopted temporary rule.
- (3) The date specified in the temporary rule.



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(4) December 31, 2008."

Page 12, after line 41, begin a new paragraph and insert:
"SECTION 23. An emergency is declared for this act."
 Renumber all SECTIONS consecutively.

(Reference is to SB 431 as printed February 21, 2007.)

GARD

SENATE MOTION

Madam President: I move that Senate Bill 431 be amended to read as follows:

Page 4, line 16, delete "JANUARY 1, 2008]:" and insert "JULY 1, 2007]:".

Page 12, between lines 39 and 40, begin a new paragraph and insert:
"SECTION 18. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies notwithstanding the effective date of:

(1) IC 13-18-10-1.5 and IC 13-18-10-2.4, both as added by this act; and

(2) the amendments under this act to IC 13-11-2-8, IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1, and IC 13-18-10-2.2.

(b) The definitions in IC 13-11-2 apply in this SECTION.

(c) Subject to subsection (d), the Indiana Code sections referred to in subsection (a), as added or amended by this act, apply to the following confined feeding operations and CAFOs in the same manner those sections would have applied if those sections had been in effect on the date the application for the confined feeding operation or CAFO was submitted to the department of environmental management or the notice of intent for general NPDES permit coverage for the CAFO was filed with the department:

(1) A confined feeding operation or CAFO for which a person is required to submit an application to the department for approval under IC 13-18-10-1(a), as amended by this act.

(2) A CAFO for which a person is required to submit an application to the department for approval of an individual NPDES permit for the CAFO under 327 IAC 5.

(3) A CAFO for which a person is required to file a notice of intent under 327 IAC 15 for general NPDES permit coverage for the CAFO.

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(d) Subsection (c) applies only if:

- (1) an application referred to in subsection (c) was not approved by the department of environmental management before the effective date of this SECTION; or**
- (2) the date of submission of a notice of intent referred to in subsection (c) is on or after the effective date of this SECTION."**

Page 12, after line 41, begin a new paragraph and insert:

"SECTION 20. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

(Reference is to SB 431 as printed February 21, 2007.)

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SENATE MOTION

Madam President: I move that Senator Kenley be added as second author and Senator Deig be added as third author of Engrossed Senate Bill 431.

GARD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 431, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Page 6, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 11. IC 13-18-10-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.7. (a) Except as provided in subsection (b), a new confined feeding operation, including a CAFO, may not be constructed if any part of a structure that is part of the operation or of a manure treatment facility that is part of the operation would be less than one (1) mile from the boundary

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of any of the following:

(1) A parcel of land on which any of the following is located:

(A) A school, other than a home school.

(B) A health facility licensed under IC 16-28.

(2) A municipality.

(b) Subsection (a) does not apply to construction that:

(1) is an expansion of an existing confined feeding operation or CAFO; and

(2) is proposed by a person that has not committed a violation of:

(A) environmental management laws; or

(B) a rule adopted by the board;

as determined by the department."

Page 7, line 19, delete "four thousand".

Page 7, line 19, strike "dollars".

Page 7, line 19, delete "(\$4,000)." and insert "**one dollar (\$1).**".

Page 8, delete lines 40 through 42.

Page 9, delete lines 1 through 11.

Page 9, line 12, delete "(f)" and insert "**(e)**".

Page 9, line 13, delete "the fee determined by rule by the department as a" and insert "**one dollar (\$1).**".

Page 9, delete lines 14 through 16.

Page 9, line 17, delete "(g)" and insert "**(f)**".

Page 9, line 36, strike "and".

Page 9, line 39, delete "determination." and insert "determination; and

(3) may not approve the application if the limitation in section 1.7(a) of this chapter applies to the facility that is the subject of the application."

Page 10, line 25, delete "subsections (f) and (g)," and insert "**subsection (f),**".

Page 10, delete lines 36 through 39.

Page 10, line 40, delete "(g)" and insert "**(f)**".

Page 11, line 21, delete "(h)" and insert "**(g)**".

Page 11, line 21, delete "(i)," and insert "**(h),**".

Page 11, line 28, delete "(i)" and insert "**(h)**".

Page 11, line 32, delete "(g)" and insert "**(f)**".

Page 11, line 33, delete "(j)" and insert "**(i)**".

Page 13, line 13, delete "The following fees payable" and insert "**An annual fee of one dollar (\$1) applies to confined feeding operations and CAFOs.**".

Page 13, delete lines 14 through 42.

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Page 14, delete lines 1 through 8.

Page 14, line 9, delete "(d)" and insert "(b)".

Page 14, between lines 12 and 13, begin a new paragraph and insert:

"(c) The department shall deposit the fee revenue collected under this section in the confined feeding operation inspection fund established by section 2.8 of this chapter.

SECTION 19. IC 13-18-10-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.8. (a) The confined feeding operation inspection fund is established to permit the department to inspect confined feeding operations, including CAFOs, to determine compliance with this title.**

(b) The department shall administer the fund. Money in the fund is annually appropriated to the department for purposes of this chapter.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund."

Page 14, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 21. IC 13-18-10-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.5. (a) The department shall establish civil penalty matrices for the following categories:

- (1) First time violations.**
- (2) Repeat violations.**
- (3) Intentional violators.**

(b) The civil penalty matrices established in this section must include the following factors to determine each penalty:

- (1) The magnitude of the violation.**
- (2) The gravity of the effect of the violation.**
- (3) The preventability of the violation.**
- (4) The actions taken to prevent or correct the violation.**

(c) The range of the penalties for each category of the civil penalty matrix is as follows:

- (1) First time violations, one hundred dollars (\$100) to twenty-five thousand dollars (\$25,000) for each day of violation.**
- (2) Repeat violations, five hundred dollars (\$500) to fifty**

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thousand dollars (\$50,000) for each day of violation.

(3) Intentional violators, ten thousand dollars (\$10,000) to one hundred thousand dollars (\$100,000) for each day of violation.

SECTION 22. IC 13-18-10-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.7. The department shall inspect a confined feeding operation, including a CAFO, at least one (1) time each year if the department determines that the owner or operator has committed a violation of:**

- (1) environmental management laws; or
- (2) a rule adopted by the board."

Page 15, delete lines 24 through 38, begin a new paragraph and insert:

"SECTION 25. IC 15-3-3-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) The state chemist shall adopt rules to establish a training and educational program for manure haulers and applicators concerning the application to land of manure generated from a confined feeding operation (as defined by IC 13-11-2-40), including concentrated animal feeding operations (as defined by IC 13-11-2-38.3).**

(b) The program established under subsection (a) must include the following topics concerning manure hauling and application:

- (1) Manure testing.
- (2) Soil testing.
- (3) Transportation.
- (4) Manure application and handling.
- (5) Any other topics determined by the state chemist.

SECTION 26. [EFFECTIVE JULY 1, 2007] **(a) Before November 1, 2007, the state chemist shall submit a report concerning the status of the manure haulers and applicators program under IC 15-3-3-17.5, as added by this act, to the general assembly in an electronic format under IC 5-14-6.**

(b) This SECTION expires July 1, 2008.

SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "concentrated animal feeding operation" has the meaning set forth in IC 13-11-2-38.3.**

(b) As used in this SECTION, "confined feeding operation" has the meaning set forth in IC 13-11-2-40.

(c) As used in this SECTION, "executive" has the meaning set forth in IC 36-1-2-5.

(d) Before January 1, 2008, the department of agriculture shall

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communicate with the executive of each county to:

(1) encourage the county to adopt; and

(2) assist the county in adopting;

an ordinance to address land use and zoning issues in the county related to concentrated animal feeding operations and confined feeding operations.

(e) This SECTION expires January 1, 2008."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 431 as reprinted February 26, 2007.)

PFLUM, Chair

Committee Vote: yeas 8, nays 3.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-11-15.4, AS ADDED BY P.L.235-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:

(1) the wastewater revolving loan program established by IC 13-18-13-1; and

(2) the drinking water revolving loan program established by IC 13-18-21-1.

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in ~~IC 13-11-2-164(a)~~ and IC 13-11-2-164(b) **and IC 13-11-2-164(c)**), the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest

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on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default."

Page 3, line 4, delete "(a)" and insert **"(a) Political subdivision", for purposes of IC 13-18-10, means:**

(1) a county; or

(2) a municipality.

~~(a)~~ **(b)"**.

Page 3, line 13, strike "(b)" and insert **"(c)"**.

Page 3, line 13, delete "IC 13-18-10 and".

Page 3, line 26, strike "(c)" and insert **"(d)"**.

Page 5, delete lines 11 through 13 and insert **"environment with respect to confined feeding operations and CAFOs.**

(b) The following are the only entities that have regulatory authority for the protection of human health with respect to confined feeding operations and CAFOs:

(1) The department.

(2) The state department of health.

(3) A:

(A) local health department; or

(B) health and hospital corporation;

that has jurisdiction where the operation is located."

Page 5, line 14, delete "(b) A" and insert **"(c) Subject to subsection (d), a"**.

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"(d) The granting by the department of an approval under section 1 of this chapter does not preempt or affect in any way the authority of a political subdivision under subsection (c)."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12.1-1, AS AMENDED BY P.L.154-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means tangible personal property that a deduction applicant:

(A) installs after February 28, 1983, and on or before the approval deadline determined under section 9 of this chapter, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) uses in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products;

(C) acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for use as described in clause (B); and

(D) never used for any purpose in Indiana before the

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installation described in clause (A).

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter;

(B) the application filed in accordance with section 5.4 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter; or

(C) the application filed in accordance with section 5.3 of this chapter by a property owner that desires to obtain the deduction provided by section 4.8 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a).

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However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) laboratory equipment;
- (ii) research and development equipment;
- (iii) computers and computer software;
- (iv) telecommunications equipment; or
- (v) testing equipment;

(C) the deduction applicant uses in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(D) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for purposes described in this subdivision; and

(E) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) racking equipment;
- (ii) scanning or coding equipment;
- (iii) separators;
- (iv) conveyors;
- (v) fork lifts or lifting equipment (including "walk behinds");
- (vi) transitional moving equipment;
- (vii) packaging equipment;

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- (viii) sorting and picking equipment; or
 - (ix) software for technology used in logistical distribution;
 - (C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant and uses for the storage or distribution of goods, services, or information; and
 - (D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).
- (14) "New information technology equipment" means tangible personal property that:
- (A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;
 - (B) consists of equipment, including software, used in the fields of:
 - (i) information processing;
 - (ii) office automation;
 - (iii) telecommunication facilities and networks;
 - (iv) informatics;
 - (v) network administration;
 - (vi) software development; and
 - (vii) fiber optics;
 - (C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and
 - (D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).
- (15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.
- (16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.
- (17) "Eligible vacant building" means a building that:
- (A) is zoned for commercial or industrial purposes; and
 - (B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of occupation that the department of local government finance requires.

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(18) "Confined feeding equipment" means equipment used for either of the following at a confined feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

(A) The anaerobic digestion of manure.

(B) The control of odors.

SECTION 2. IC 6-1.1-12.1-2, AS AMENDED BY P.L.154-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

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(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

- (1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.
- (2) A significant number of dwelling units within the area are:
 - (A) the subject of an order issued under IC 36-7-9; or
 - (B) evidencing significant building deficiencies.
- (3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.
- (4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

- (1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.
- (2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by section 3, 4.5, or 4.8 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following

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four (4) sets of standards may be established:

- (1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.
- (2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.
- (3) One (1) relative to the deduction allowed under section 4.5 of this chapter.
- (4) One (1) relative to the deduction allowed under section 4.8 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

- (1) limit the time period to a certain number of calendar years during which the economic revitalization area shall be so designated;
- (2) limit the type of deductions that will be allowed within the economic revitalization area to the deduction allowed under section 3 of this chapter, the deduction allowed under section 4.5 of this chapter, the deduction allowed under section 4.8 of this chapter, or any combination of these deductions;
- (3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~and~~ new information technology equipment, **and confined feeding equipment**, if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;
- (4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988;
- (5) limit the dollar amount of the deduction that will be allowed under section 4.8 of this chapter with respect to the occupation of an eligible vacant building; or
- (6) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g)

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for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

To exercise one (1) or more of these powers, a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** installed on or before the approval deadline determined under section 9 of this chapter, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4, 4.5, or 4.8 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing

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equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 3. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or**

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confined feeding equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed

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installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), and subject to subsection (i), an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i), the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

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YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%

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3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

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(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

- (1) the deduction under this section as in effect on March 1, 2001; and
- (2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, **except as provided in subsection (j)**, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology

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equipment, **or confined feeding equipment** that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

- (1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by
- (2) the quotient of:
 - (A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by
 - (B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:
 - (i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and
 - (ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

(j) For confined feeding equipment, a deduction may not be allowed under subsection (g) for more than five (5) years.

SECTION 4. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.193-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction schedule with the person's personal property return on a form prescribed by the department of local government finance with the township assessor of the township in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, **or** new information technology equipment, **or confined feeding equipment** is located. Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a person files with:

- (1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b); or
- (2) a timely amended personal property return under IC 6-1.1-3-7.5.

The township assessor shall forward to the county auditor and the county assessor a copy of each certified deduction schedule filed under this subsection.

(b) The deduction schedule required by this section must contain the

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following information:

(1) The name of the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(3) The amount of the deduction claimed for the first year of the deduction.

(4) For a deduction for confined feeding equipment:

(A) a copy of the certification issued under subsection (j);
or

(B) a statement from the person filing the schedule that the equipment is considered certified under subsection (k).

(c) This subsection applies to a deduction schedule with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction schedule to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction schedule must be filed under this section in the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) The township assessor or the county assessor may:

(1) review the deduction schedule; and

(2) before the March 1 that next succeeds the assessment date for which the deduction is claimed, deny or alter the amount of the deduction.

If the township assessor or the county assessor does not deny the deduction, the county auditor shall apply the deduction in the amount claimed in the deduction schedule or in the amount as altered by the township assessor or the county assessor. A township assessor or a county assessor who denies a deduction under this subsection or alters

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the amount of the deduction shall notify the person that claimed the deduction and the county auditor of the assessor's action. The county auditor shall notify the designating body and the county property tax assessment board of appeals of all deductions applied under this section.

(f) If the ownership of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and
- (2) files the deduction schedules required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal a determination of the township assessor or the county assessor under subsection (e) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the township assessor or the county assessor not more than forty-five (45) days after the township assessor or the county assessor gives the person notice of the determination. Except as provided in subsection (i), an appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

(i) The county assessor is recused from any action the county property tax assessment board of appeals takes with respect to an appeal under subsection (h) of a determination by the county assessor.

(j) Except as provided in subsection (k), a person that files a certified deduction schedule under subsection (a) for a deduction for confined feeding equipment must file with the schedule proof of certification by the department of environmental management that the equipment for which the person claims the deduction is confined feeding equipment. The department of environmental management, upon application by a person, shall determine whether equipment qualifies as confined feeding equipment. If the department determines that the equipment qualifies as confined feeding equipment, the department shall certify the equipment and provide proof of the certification to the person. The department of environmental management shall prescribe the form and manner of the certification process required by this subsection.

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(k) If the department of environmental management receives an application for certification before April 15 of the assessment year, the department shall determine whether the equipment qualifies as confined feeding equipment and provide proof of the certification to the person before June 11 of the assessment year. If the department fails to provide proof under this subsection before June 11 of the assessment year, the equipment is considered certified.

SECTION 5. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.1-2006, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.4(b) of this chapter, a deduction schedule filed under section 5.4 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction schedule.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.4(b) of this chapter, a property owner who files a deduction schedule under section 5.4 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

- (1) The name and address of the taxpayer.
- (2) The location and description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which the deduction was granted.
- (3) Any information concerning the number of employees at the facility where the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is located, including estimated totals that were provided as part of the statement of benefits.
- (4) Any information concerning the total of the salaries paid to

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those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

(2) Any information concerning the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**.

SECTION 6. IC 6-1.1-12.1-5.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**, or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 7. IC 6-1.1-12.1-8, AS AMENDED BY P.L.154-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

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(1) A list of the deduction applications that were filed under this chapter during that year that resulted in deductions being applied under this chapter for that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and applied during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that were in effect under section 4.5 of this chapter during the year.

(4) The total amount of all deductions for eligible vacant buildings that were in effect under section 4.8 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2), (a)(3), and (a)(4) with the department of local government finance not later than December 31 of each year.

SECTION 8. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.154-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the:

(A) initiation of the redevelopment or rehabilitation;

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**; or

(C) occupation of an eligible vacant building;

for which the person desires to claim a deduction under this chapter.

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(3) Failure to designate an area as an economic revitalization area before the initiation of the:

- (A) redevelopment;
- (B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment**;
- (C) rehabilitation; or
- (D) occupation of an eligible vacant building;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** under section 2, 3, 4.5, or 4.8 of this chapter.

(5) Failure to file a:

- (A) timely; or
- (B) complete;

deduction application under section 5, 5.3, or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver."

Page 13, line 40, after "IC 13-18-10-4" insert ", AS AMENDED BY SEA 526-2007, SECTION 167,".

Page 14, line 20, delete "university" and insert "postsecondary educational institution".

Page 14, line 22, delete "university" and insert "postsecondary educational institution".

Page 17, between lines 23 and 24, begin a new paragraph and insert: "SECTION 37. [EFFECTIVE JULY 1, 2007] **IC 6-1.1-12.1-1, IC 6-1.1-12.1-2, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-5.4, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.8, IC 6-1.1-12.1-8, and IC 6-1.1-12.1-11.3, all as amended by this act, apply only to property taxes first due and payable after 2008.**"

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Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for ~~his~~ **the person's** direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

- (1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;
- (2) the person acquiring the property is occupationally engaged in the production of food or commodities ~~which he~~ **that the person** sells for human or animal consumption or uses for further food and food ingredients or commodity production; and
- (3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

(c) Transactions involving confined feeding equipment (as defined in IC 6-3.1-35-1) are exempt from the state gross retail tax if the person acquiring the property is occupationally engaged in the production of food or commodities that the person sells for human or animal consumption or uses for further food and food ingredient or commodity production.

SECTION 2. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 35. Confined Feeding Equipment Investment Tax Credit

Sec. 1. As used in this chapter, "confined feeding equipment" means equipment used for either of the following at a confined

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feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

- (1) The anaerobic digestion of manure.
- (2) The control of odors.

Sec. 2. As used in this chapter and unless the context clearly denotes otherwise, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. As used in this chapter and unless the context clearly denotes otherwise, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; and
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "qualified investment" means a taxpayer's expenditures for confined feeding equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means a person, a corporation, a partnership, or another entity that makes a qualified investment.

Sec. 8. (a) A taxpayer that:

- (1) is allowed a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer makes a qualified investment.

(b) A tax credit under this chapter must be applied against the taxpayer's state tax liability in the following order:

- (1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

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(2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).

(3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).

Sec. 9. Subject to section 10 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment is equal to fifty percent (50%) of the amount of the taxpayer's qualified investment.

Sec. 10. (a) A credit under section 9 of this chapter must be taken in four (4) annual installments, beginning with the year in which the taxpayer places into service the taxpayer's confined feeding equipment.

(b) The amount of an annual installment of the credit under this chapter is equal to the credit amount determined under section 9 of this chapter, divided by four (4).

Sec. 11. (a) A person that proposes to make a qualified investment may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

(b) A person that files an application under subsection (a) for a tax credit under this chapter for confined feeding equipment must file with the application proof of certification by the department of environmental management that the equipment for which the person seeks a tax credit is confined feeding equipment. The department of environmental management, upon application by a person, shall determine whether equipment qualifies as confined feeding equipment. If the department determines that the equipment qualifies as confined feeding equipment, the department shall certify the equipment and provide proof of the certification to the person. The department of environmental management shall prescribe the form and manner of the certification process required by this subsection.

Sec. 12. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the taxpayer's proposed investment satisfies the requirements of this chapter.

Sec. 13. (a) The corporation shall enter into an agreement with an applicant that is granted a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the qualified investment that is the subject of the agreement.

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(2) The first taxable year for which the credit may be claimed.

(3) A requirement that the taxpayer shall maintain operations at the site of the qualified investment for at least ten (10) years.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

Sec. 14. If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 15. If a pass through entity does not have state income tax liability against which the tax credit under this chapter may be applied, a shareholder, member, or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity under this chapter for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled.

Sec. 16. To receive the credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the certification required under section 11 of this chapter, a copy of the taxpayer's certificate of compliance issued under section 13 of this chapter, and all information that the department determines is necessary for the calculation of the credit provided by this chapter."

Page 17, between lines 25 and 26, begin a new paragraph and insert:
"SECTION 32. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) IC 6-2.5-5-2, as amended by this act, applies to transactions occurring after June 30, 2007.

(b) IC 6-3.1-35, as added by this act, applies to taxable years beginning after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

- (1) a solar, a wind turbine, a waste management, a resource recovery, a refuse-derived fuel, ~~or a wood burning facility,~~ **or an organic waste biomass conversion facility;**
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "**Organic waste biomass conversion facility**" means **tangible property:**

- (1) **not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;**
- (2) **reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and**
- (3) **directly used to produce electricity of not more than eighty (80) megawatts capacity from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop byproducts or residues.**

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel that exceeds the minimum amount of fossil fuel required for any necessary startup and flame stabilization or municipal solid waste.

~~(c)~~ (d) "Cogeneration facility" means:

- (1) a facility that:
 - (A) simultaneously generates electricity and useful thermal energy; and
 - (B) meets the energy efficiency standards established for

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cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(d) (e) "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

(e) (f) "Small hydro facility" means:

(1) a hydroelectric facility at a dam;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(f) (g) "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 3, delete lines 3 through 28.

Page 5, delete lines 7 through 17.

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec.

29. **(a) As used in this section, "organic waste biomass conversion unit" means tangible property:**

- (1) not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;**
- (2) reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and**
- (3) directly used to produce electricity of eighty (80) megawatts capacity or less from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including distiller's grains, kitchen waste, orchard tree crops, vineyard produce, grain, legumes, sugar, and other crop byproducts.**

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel in an amount exceeding the minimum amount of fossil fuel required for any necessary startup and flame stabilization.

(a) (b) For purposes of this section, "wind power device" means a device, such as a windmill or a wind turbine, that is designed to utilize the kinetic energy of moving air to provide mechanical energy or to produce electricity.

(b) (c) The owner of real property, or a mobile home that is not assessed as real property, that is equipped with:

- (1) a wind power device; or**
- (2) an organic waste biomass conversion unit;**

is entitled to an annual property tax deduction.

(d) The amount of the deduction equals the remainder of:

- (1) the assessed value of the real property or mobile home with the ~~wind power device~~ tangible property described in subsection (c)(1) or (c)(2) included; minus**
- (2) the assessed value of the real property or mobile home without the ~~wind power device~~ tangible property described in**

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subsection (c)(1) or (c)(2).

SECTION 2. IC 6-2.3-1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 2.4. "Commission" refers to the Indiana utility regulatory commission.**

SECTION 3. IC 6-2.3-1-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 5.8. "Organic waste biomass conversion unit" has the meaning set forth in IC 6-1.1-12-29.**

SECTION 4. IC 6-2.3-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 5.3. Credits

Sec. 1. A taxpayer is entitled to the credits against the taxpayer's tax liability provided in this chapter.

Sec. 2. (a) If the amount of a credit granted under this chapter for a taxpayer in a taxable year exceeds the taxpayer's tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused credit.

Sec. 3. To apply a credit granted under this chapter against the taxpayer's tax liability, a taxpayer must claim the credit on the taxpayer's tax return or returns in the manner prescribed by the department. A taxpayer claiming a credit under this chapter shall submit to the department any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

Sec. 4. The amount of a credit granted under this chapter shall be disregarded by the commission in determining a taxpayer's rates.

Sec. 5. (a) A taxpayer that purchases electricity for resale at retail from an individual or entity that:

- (1) operates an organic waste biomass conversion unit; and**
- (2) generates the electricity from the organic waste biomass conversion unit;**

is entitled to a credit against the taxpayer's tax liability in the taxable year in which the electricity is received.

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(b) The amount of the credit is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the rate per kilowatt hour that the taxpayer would be obligated to pay for the electricity under 170 IAC 4-4.1-9 (as effective January 1, 2007), as applied without:

(A) regard to whether the taxpayer is an electric utility (as defined in 170 IAC 4-4.1-1 (as effective January 1, 2007)); and

(B) any changes resulting from the negotiation of a different rate between the taxpayer and the electric power producer.

STEP TWO: Determine the greater of zero (0) or the difference determined by subtracting the STEP ONE amount from the rate per kilowatt hour that the taxpayer paid for the electricity.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO result.

(B) The greater of zero (0) or fifty percent (50%) of the result determined by subtracting the STEP ONE amount from the average retail rate at which the taxpayer sells a kilowatt hour of electricity to residential customers (or all customers if the taxpayer does not sell electricity at retail to residential customers) during the same rating period.

STEP FOUR: Determine the greater of zero (0) or the product determined by multiplying the STEP THREE result by the number of kilowatt hours purchased by the taxpayer during the rating period.

SECTION 5. IC 6-3.1-27-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5.** As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures for:

- (1) the purchase of new equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new facilities;
- (6) costs associated with retooling existing machinery and equipment;
- (7) costs associated with the construction of special purpose

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buildings and foundations; and

(8) costs of obtaining rights to use any patented process and any related trademark, if the rights are acquired from an entity that:

(A) does not have control of or a material, direct, or indirect ownership interest in:

- (i) the taxpayer that makes a qualified investment; or
- (ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer; and

(B) is not an entity in which:

- (i) the taxpayer that makes a qualified investment; or
- (ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer; has control of or a material, direct, or indirect ownership interest;

that are certified by the corporation under section 10.5 of this chapter as being eligible for the credit under section 10.5 of this chapter.

SECTION 6. IC 6-3.1-27-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. (a) The amount of the credit to which a taxpayer is entitled under this section is the amount of the taxpayer's qualified investment that is placed in service in the taxable year.**

(b) To be entitled to a credit under this section, a taxpayer must request that the corporation determine whether an expenditure is a qualified investment. To make a request for a determination, a taxpayer must file with the corporation an application in the form and in the manner specified by the corporation. The application must be filed with the corporation before the taxpayer takes a substantial step toward improving the site where the qualified investment will be placed in service.

(c) After receiving an application for a credit under this section, the corporation shall review the application to determine whether the proposed expenditure is a qualified investment described in subsection (a) and the amount of the credit under this section to which the applicant would be entitled. The corporation shall send to the taxpayer and to the department of state revenue a letter:

- (1) certifying that the taxpayer is entitled to claim the credit under this section for a qualified investment; or**
- (2) stating the reason why the taxpayer is not entitled to claim**

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the credit.

If a taxpayer receives a credit under this section, the property for which the credit was granted must be placed in service not more than five (5) years after the corporation issues a letter under this section certifying that the taxpayer is entitled to claim the credit.

(d) If a taxpayer receives a credit under this section and does not make the qualified investment (or a part of the qualified investment) for which the credit was granted within the time required by subsection (c), the corporation may require the taxpayer to repay the following:

(1) The additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted for the qualified investment (or part of the qualified investment) that was not made by the taxpayer within the time required by subsection (c).

(2) Interest at a rate established under IC 6-8.1-10-1(c) on the additional amount of state tax liability referred to in subdivision (1).

(e) The corporation shall determine the maximum amount of credits to which a taxpayer is entitled under this section. The corporation may not grant under this section more than ten million dollars (\$10,000,000) in credits for all taxpayers for all taxable years. The corporation may not grant under this section more than two million dollars (\$2,000,000) in credits to any one (1) taxpayer or for any one (1) location for all taxable years.

SECTION 7. IC 6-3.1-27-13, AS AMENDED BY P.L.191-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. To receive the credit provided by this chapter, a taxpayer must do the following:

(1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(2) Provide a copy of the certificate of the corporation finding:

(A) that the taxpayer; or

(B) if the taxpayer is a shareholder, partner, or member of a pass through entity, that the pass through entity;

is eligible for the credit under IC 5-28-6-3 or **section 10.5 of this chapter.**

(3) Submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

The department may require a pass through entity to provide informational reports that the department determines necessary for the

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department to calculate the percentage of a credit provided by this chapter to which a shareholder, partner, or member of the pass through entity is entitled."

Page 17, between lines 25 and 26, begin a new paragraph and insert:
"SECTION 37. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: (a) IC 6-1.1-12-29, as amended by this act, applies only to property taxes first due and payable after December 31, 2007.

(b) IC 6-2.3-5.3, as added by this act, applies only to taxable years beginning after December 31, 2006.

(c) IC 6-3.1-27-10.5, as added by this act, applies only to qualified investments placed in service after December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 13, line 15, delete "An" and insert **"Subject to IC 15-9-2-5, an"**.

Page 16, between lines 11 and 12, begin a new paragraph and insert:
"SECTION 26. IC 15-9-2-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Before January 1, 2008, the department shall implement a voluntary certified livestock producer program to provide incentives and recognition for livestock producers who use innovative environmental, animal health, and general management practices. Criteria for certification in the program may include the following:

(1) Compliance with all:

(A) laws and rules concerning confined feeding operations (as defined by IC 13-11-2-40), including concentrated animal feeding operations; and

(B) local zoning ordinances.

(2) Completion of educational modules on the environmental impact of livestock production.

(3) Compliance with a national livestock association's guidelines for animal health and food safety.

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(4) Participation in biosecurity measures, including the following:

(A) Premises or property identification under the state board of animal health's implementation of stage 1 of the National Animal Identification System.

(B) Implementation of the United States Department of Agriculture's National Poultry Improvement Plan.

(C) Implementation of the United States Department of Agriculture's online biosecurity guidelines and checklist.

(b) The department may remit a part of the fee required under IC 13-18-10-2.7 for livestock producers who are certified in the program."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 16, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 26. IC 15-9-2-3, AS AMENDED BY P.L.1-2006, SECTION 294, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

(A) The center for value added research.

(B) The state fair board for purposes of administering the director of the department of agriculture's duties under IC 15-1.5-4.

(C) The Indiana corn marketing council for purposes of administering the duties of the director of the department of agriculture under IC 15-4-10.

(D) The Indiana organic peer review panel.

(E) The Indiana dairy industry development board for purposes of administering the duties of the director of the department of agriculture under IC 15-6-4.

(F) The Indiana land resources council.

(G) The Indiana grain buyers and warehouse licensing agency.

(H) The Indiana grain indemnity corporation.

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- (I) The division of soil conservation established by IC 15-9-4-1.
- (2) Administer the election of state fair board members.
- (3) Administer state programs and laws promoting agricultural trade.
- (4) Administer state livestock or agriculture marketing grant programs.
- (5) Administer economic development efforts for agriculture.
- (6) Promote and support the biomass grant program established by IC 15-9-5-3.**

SECTION 27. IC 15-9-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 5. Biomass Grant Program

Sec. 1. As used in this chapter, "office" means the office of energy and defense development.

Sec. 2. As used in this chapter, "person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, a governmental entity, or any other legal entity.

Sec. 3. There is established the biomass grant program.

Sec. 4. The office shall award grants and administer the program from funds appropriated to the office under section 6 of this chapter.

Sec. 5. The department shall assist the office in carrying out the office's duties under this chapter.

Sec. 6. The amount necessary to implement this chapter is annually appropriated to the office.

Sec. 7. A person may apply on a form prescribed by the office for a grant under this chapter to defray a part of the cost of installing a biomass energy project that makes use of any of the following technologies:

- (1) Anaerobic digestion.**
- (2) Gasification.**
- (3) Fast pyrolysis.**

Sec. 8. A grant awarded under this chapter may not exceed the greater of:

- (1) twenty-five percent (25%) of a person's biomass energy project costs; or**
- (2) two hundred fifty thousand dollars (\$250,000).**

Sec. 9. The total amount of grants awarded under this chapter in a state fiscal year may not exceed two million dollars

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(\$2,000,000).

Sec. 10. This chapter expires July 1, 2009."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

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